

The Ontario Securities Commission

# OSC Bulletin

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The Ontario Securities Commission administers the *Securities Act of Ontario* (R.S.O. 1990, c. S.5) and the *Commodity Futures Act of Ontario* (R.S.O. 1990, c. C.20)

**The Ontario Securities Commission**

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*Editor's Note: On Friday, April 29, 2022, the Securities Commission Act, 2021 (SCA), came into force by proclamation of the Lieutenant Governor of Ontario. The SCA's proclamation implemented key structural and governance changes to the OSC: the separation of the OSC Chair and Chief Executive Officer roles, and the creation of a new Capital Markets Tribunal. These new structural and governance changes are now reflected in the Bulletin, with one section to report and record the activities of the Capital Markets Tribunal and one section to report and record the activities of the Ontario Securities Commission: [www.capitalmarketstribunal.ca/en/resources](http://www.capitalmarketstribunal.ca/en/resources).*

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# A. Capital Markets Tribunal

## A.2 Other Notices

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A.2.1 Michael Paul Kraft and Michael Brian Stein

FOR IMMEDIATE RELEASE  
August 22, 2022

**MICHAEL PAUL KRAFT and  
MICHAEL BRIAN STEIN,  
File No. 2021-32**

**TORONTO** – Take notice that the hearing in the above named matter scheduled to be heard on November 29, 2022 will not proceed as scheduled.

The hearing on the merits shall commence on November 28, 2022 and continue on November 30, December 1, 2, 5, 6, 7, 8, and 9, 2022 at 10:00 a.m. on each day.

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# B. Ontario Securities Commission

## B.2 Orders

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### B.2.1 Global Execution Limited – s. 38 of the CFA

#### Headnote

Application under section 38 of the Commodity Futures Act (Ontario) (CFA) for a ruling that the Applicant be exempted from the dealer registration requirement in paragraph 22(1)(a) and the prohibition against trading on non-recognized exchanges in section 33 of the CFA, in connection with certain trades in foreign contracts where the Applicant is acting as principal or agent in such trades to, from or on behalf of an affiliate of the Applicant that is entering into such trades as principal and for its own account or through the affiliate's adviser registered under the CFA.

#### Applicable Legislative Provisions

##### Statutes Cited

Commodity Futures Act, R.S.O. 1990, c. C.20, as am., ss. 22, 33 and 38.  
Securities Act, R.S.O. 1990, c. S.5, as am.

##### Instruments Cited

National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations, s. 8.18.  
Ontario Securities Commission Rule 91-502 Trades in Recognized Options, ss. 3.1 and 6.1.  
Ontario Instrument 32-507 (Commodity Futures Act) Exemptions for International Dealers, Advisers and Sub-Advisers (Interim Class Order).  
Ontario Instrument 91-505 Exemptions from the Options Proficiency Requirement for International Dealers, Advisers and Sub-Advisers (Interim Class Order), s. 13.

July 11, 2022

**IN THE MATTER OF  
THE *COMMODITY FUTURES ACT*,  
R.S.O. 1990, c. C.20,  
AS AMENDED  
(the CFA)**

**AND**

**IN THE MATTER OF  
GLOBAL EXECUTION LIMITED**

**RULING  
(Section 38 of the CFA)**

**UPON** the application (the **Application**) of Global Execution Limited (the **Applicant**) to the Ontario Securities Commission (the **Commission**) for a ruling of the Commission, pursuant to section 38 of the CFA, that:

- (a) the Applicant is not subject to the dealer registration requirements in the CFA (as defined below) or the trading restrictions in the CFA (as defined below) in connection with trades in foreign contracts (as defined below) where the Applicant is acting as principal or agent in such trades to, from or on behalf of a GEL Affiliate (as defined below) that is entering into such trades as principal and for its own account, or an Ontario Adviser (as defined below) entering into such trades as agent for a GEL Affiliate; and
- (b) a GEL Affiliate or its Ontario Adviser is not subject to the dealer registration requirements in the CFA or the trading restrictions in the CFA in connection with trades in foreign contracts where the Applicant acts in respect of such trades on behalf of a GEL Affiliate that is entering into such trades as principal and for its own account, or an Ontario Adviser entering into such trades as agent for a GEL Affiliate;

**AND WHEREAS** for the purposes of this ruling (the **Decision**),

(i) the following terms have the following meanings:

“**dealer registration requirements in the CFA**” means the provisions of section 22 of the CFA that prohibit a person or company from trading in foreign contracts unless the person or company satisfies the applicable provisions of section 22 of the CFA;

“**foreign contract**” means a commodity futures contract or a commodity futures option that trades on one or more organized exchanges located outside of Canada and that is cleared through one or more clearing corporations located outside of Canada;

“**Existing GEL Affiliate**” means a pooled investment fund that is

- a) domiciled in the Cayman Islands;
- b) a Permitted Client;
- c) an “affiliate” of the Applicant as that term is defined in the *Securities Act* (Ontario); and
- d) all of the beneficial owners of such pooled investment fund are (i) direct or indirect owners of the Applicant or its affiliates, or (ii) employees, partners or officers of the Applicant or its affiliates;

“**GEL Affiliate**” means the Existing GEL Affiliate or any other pooled investment entity that exists or may be formed in the future and that is

- a) domiciled in a foreign jurisdiction;
- b) a Permitted Client;
- c) an affiliate of the Applicant; and
- d) all of the beneficial owners of such pooled investment entity are (i) direct or indirect owners of the Applicant or its affiliates, or (ii) employees, partners or officers of the Applicant or its affiliates;

“**NI 31-103**” means National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations*;

“**Non-Canadian Exchange**” means a commodity futures exchange that is located outside of Canada;

“**Ontario Adviser**” means a portfolio manager registered pursuant to the *Securities Act* (Ontario) (**OSA**) and commodity trading manager registered pursuant to the CFA that is acting as adviser to a GEL Affiliate;

“**Permitted Client**” means a client in Ontario that is a “permitted client” as that term is defined in section 1.1 of NI 31-103;

“**trading restrictions in the CFA**” means the provisions of section 33 of the CFA that prohibit a person or company from trading in foreign contracts unless the person or company satisfies the applicable provisions of section 33 of the CFA; and

(ii) terms used in the Decision that are defined in the OSA, and not otherwise defined in the Decision or in the CFA, shall have the same meaning as in the OSA, unless the context otherwise requires;

**AND UPON** considering the Application and the recommendation of staff of the Commission;

**AND UPON** the Applicant having represented to the Commission as follows:

1. The Applicant is a corporation formed under the laws of Jersey. The Applicant’s head offices are located at Ground Floor, Harbour Reach, La Rue de Carteret, St Helier, Jersey, Channel Islands JE2 4HR.
2. The Applicant is a wholly-owned subsidiary of BCM Holdings Limited (**BCMHL**), a limited liability company established in Guernsey, Channel Islands, with registration number 51348 and registered office Martello Court, Admiral Park, St Peter Port Guernsey GY1 3HB and an indirectly wholly-owned subsidiary of BlueCrest Capital Management LP (**BCMLP**), a limited partnership established in Guernsey, Channel Islands.

## B.2: Orders

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3. The Applicant is an affiliate of BlueCrest Capital Management (UK) LLP (**BCMUK**), an authorised investment firm regulated by the Financial Conduct Authority since March 2010. BCMUK provides investment management services to BCMLP-sponsored investment funds, including the execution of orders via the Applicant. BCMUK is a subsidiary of BCMHL and an indirect subsidiary of BCMLP.
4. The Applicant provides futures commission merchant (**FCM**) services, including commodity brokerage and execution services, to affiliates of the Applicant.
5. The Applicant is (a) not in default of securities legislation in any jurisdiction of Canada or under the CFA, and (b) in compliance in all material respects with Jersey securities, derivatives and commodity futures laws.
6. The Applicant is not registered in any capacity in any jurisdiction of Canada and cannot rely on the international dealer exemption set out in section 8.18 of NI 31-103 (**IDE**). The Applicant is not registered under the securities legislation of the foreign jurisdiction in which its head office or principal place of business is located in a category of registration that would permit it to carry on the activities in that jurisdiction that registration as a dealer would permit it to carry on in Ontario.
7. The Applicant operates under an exemption from registration under the securities legislation of the jurisdiction in which its head office is located (the *Financial Services (Investment Business (Restricted Investment Business – Exemption)) (Jersey) Order 2001*), which in turn permits the Applicant to carry on certain activities in that jurisdiction, including brokerage and execution activities, that registration as a “futures commission merchant” under the CFA would permit it to carry on in Ontario, on the basis that it provides such services exclusively to GEL Affiliates as principal to all transactions executed by the Applicant (whether directly or via an Ontario Adviser as agent for GEL Affiliates). The Applicant was formerly licensed in Jersey, Channel Islands, to provide brokerage and execution services to third party clients under Article 9 of the Financial Services (Jersey) Law 1998. The Applicant voluntarily surrendered such registration when it amended its business to only providing brokerage and execution activities to certain GEL Affiliates.
8. None of the investors of the GEL Affiliates are located in Ontario.
9. The Applicant is a member of certain Non-Canadian futures and options exchanges, including the Eurex Exchange and the Intercontinental Exchange (including ICE Futures Europe) in the European Union (**E.U.**) and holds sponsored access to the Chicago Mercantile Exchange and Chicago Board of Trade via its FCM clearing organization.
10. Pursuant to its exemption from registration and memberships, the Applicant is authorized to handle customer orders and otherwise act as a futures execution broker, in Jersey, Channel Islands with respect to GEL Affiliates.
11. As a member of E.U. and United Kingdom (**U.K.**) derivatives exchanges, the Applicant is subject to a broad range of regulatory obligations imposed on it by exchanges and their participants under U.K., German and E.U. legislation, including the E.U. ‘Markets in Financial Instruments’ regulations known as ‘MiFID’. These obligations are imposed via the exchanges’ rulebooks and user agreements and include detailed provisions on trading and risk controls, client order handling, margin maintenance, trade reconciliation and record-keeping, as well as extensive protections on market abuse and system resilience. In addition, the Applicant maintains appropriate capital levels for its business and adheres to a comprehensive group compliance framework governing its business operations. The Applicant also enters into business terms with each of its GEL Affiliate clients on an arm’s length basis, containing market standard forms of customer protections that are representative of the terms that the Applicant would enter into with unaffiliated clients based on market practice at the time the parties enter into the business terms. The Applicant provides this protection with respect to transactions made on applicable Non-Canadian Exchanges, and would provide an equivalent level of protection to transactions involving a GEL Affiliate and/or its Ontario Adviser going forward.
12. The Applicant proposes to offer the Existing GEL Affiliate and other GEL Affiliates the ability to trade in foreign contracts through the Applicant, either directly or through a third-party adviser that is an Ontario Adviser. Currently, GWN Capital Management Ltd. (**GWN**) acts as adviser to the Existing GEL Affiliate. GWN is currently registered as a portfolio manager pursuant to the OSA and a commodity trading manager pursuant to the CFA.
13. The Applicant will not maintain an office, sales force or physical place of business in Ontario.
14. The Applicant will solicit trades in foreign contracts in Ontario only from persons who qualify as a GEL Affiliate or its Ontario Adviser entering into such trades as agent of a GEL Affiliate.
15. A GEL Affiliate and/or its Ontario Adviser will only be offered the ability to effect trades in foreign contracts on Non-Canadian Exchanges.
16. The foreign contracts to be traded by a GEL Affiliate via its Ontario Adviser may include, but will not be limited to, a foreign contract for equity index, interest rate, energy, agricultural and other commodity products.

## B.2: Orders

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17. The Applicant will facilitate the execution of trades in foreign contracts by allowing a GEL Affiliate and/or its Ontario Adviser to enter orders either through the Applicant's own execution desk or independently through an electronic order routing system.
18. The Applicant will execute GEL Affiliates' orders on the relevant Non-Canadian Exchange in accordance with the rules and customary practices of the exchange.
19. Trades in foreign contracts executed by the Applicant may be cleared through a carrying broker of the Non-Canadian Exchange on which the trade is executed. The GEL Affiliate and/or its Ontario Adviser will be able to direct that trades executed by the Applicant be cleared through clearing brokers not affiliated with the Applicant in any way (each a **Non-GEL Clearing Broker**).
20. If the Applicant performs only the execution of a GEL Affiliate's and/or its Ontario Adviser's foreign contract order and "gives-up" the transaction for clearance to a Non-GEL Clearing Broker, such clearing broker will also be required to comply with the rules of the exchanges of which it is a member and any relevant regulatory requirements, including requirements under the CFA as applicable. Each such Non-GEL Clearing Broker will represent to the Applicant, in an industry standard give-up agreement, that it will perform its obligations in accordance with applicable laws, governmental, regulatory, self-regulatory, exchange and clearing house rules and the customs and usages of the exchange or clearing house on which the GEL Affiliate's and/or its Ontario Adviser's foreign contract order will be executed and cleared. The Applicant will not enter into a give-up agreement with any Non-GEL Clearing Broker located in the United States unless such clearing broker is registered with the United States Commodity Futures Trading Commission.
21. As is customary for all trades in foreign contracts, a clearing corporation clearing trades for an exchange or clearing division of the exchange is substituted as a universal counterparty on all trades in respect of a foreign contract and orders from a GEL Affiliate and/or its Ontario Adviser are submitted to the exchange in the name of the Non-GEL Clearing Broker or the Applicant or, on exchanges where the Applicant is not a member, in the name of another carrying broker. The GEL Affiliate is responsible for payment of daily mark-to-market variation margin and/or proper margin to carry open positions and the Applicant, the carrying broker or the Non-GEL Clearing Broker is in turn responsible to the clearing corporation/division for payment.
22. A GEL Affiliate and/or its Ontario Adviser that directs the Applicant to give up transactions in foreign contracts for clearance and settlement by Non-GEL Clearing Brokers will execute the give-up agreements described above.
23. GEL Affiliates will pay applicable commissions for trades to the Applicant and the Non-GEL Clearing Broker.
24. Absent this Decision, the dealer registration requirements in the CFA apply unless, among other things, a trade in a foreign contract is the result of an order placed with a dealer who does not carry on business in Ontario and does not involve any solicitation by or on behalf of the dealer. The Applicant will execute trades in foreign contracts with regularity for GEL Affiliates directly or through an Ontario Adviser and solicit trades in foreign contracts in Ontario from persons who qualify as a GEL Affiliate or its Ontario Adviser entering into such trades as an agent of a GEL Affiliate. Therefore, the Applicant will be considered by the Commission to be carrying on business in Ontario and soliciting trades.
25. Absent this Decision, the trading restrictions in the CFA apply unless, among other things, a foreign contract is traded on a recognized or registered commodity futures exchange and the form of the contract is approved by the Director. To date, no Non-Canadian Exchanges have been recognized or registered under the CFA.
26. If the Applicant were registered under the CFA as a "futures commission merchant", it could rely upon certain exemptions from the trading restrictions in the CFA to effect trades in respect of a foreign contract to be entered into on certain Non-Canadian Exchanges.
27. On December 1, 2020, the Commission published Proposed OSC Rule 32-506 (Commodity Futures Act) *Exemptions for International Dealers, Advisers and Sub-Advisers* (**Proposed OSC Rule 32-506**) and a proposed amendment to OSC Rule 91-502 *Trades in Recognized Options* (**OSC Rule 91-502**), intended to codify relief that is routinely granted by the Commission under both the CFA and OSC Rule 91-502 to international dealers, international advisers and international sub-advisers.
28. The Commission signed two interim class orders, which took effect on April 15, 2021, intended to provide interim relief until such time as the Commission has had an opportunity to finalize and, subject to Ministerial approval, implement Proposed OSC Rule 32-506 and the proposed amendments to OSC Rule 91-502: Ontario Instrument 32-507 (Commodity Futures Act) *Exemptions for International Dealers, Advisers and Sub-Advisers (Interim Class Order)* (**CFA Interim Order**) and Ontario Instrument 91-505 *Exemptions from the Options Proficiency Requirement for International Dealers, Advisers and Sub-Advisers (Interim Class Order)* (**Options Interim Order**).
29. The Applicant cannot rely on the exemptions set out in the CFA Interim Order as (i) the Applicant does not satisfy the requirement in such orders to be "registered, licensed or otherwise authorized under the securities, commodity futures

or derivatives legislation of the specified foreign jurisdiction in which its head office or principal place of business is located in a category of registration, licensing or authorization that permits it to carry on the activities in that jurisdiction that registration as a dealer would permit it to carry on in Ontario” and (ii) Jersey, Channel Islands, is not captured under the term “specified foreign jurisdiction” defined in the CFA Interim Order. But for these requirements, the Applicant would be able to rely on the CFA Interim Order.

30. Section 3.1 of OSC Rule 91-502 states that any person who trades as agent in, or gives advice in respect of, a recognized option as defined in section 1.1 of OSC Rule 91-502 is required to successfully complete the Canadian Options Course (which has been replaced by the Derivatives Fundamentals Course and the Options Licensing Course).
31. If the Applicant is exempt from the dealer registration requirements in the CFA under the terms and conditions of this Decision, the Applicant may rely on section 13 of the Options Interim Order or such other rule that may replace it, as applicable, pursuant to which section 3.1 of OSC Rule 91-502 would not apply to the Applicant and its salespersons, directors, officers and employees (collectively, the **Representatives**) in respect of trades in foreign contracts, provided that the Applicant and its Representatives continue to operate under an exemption from registration under the securities legislation of the jurisdiction in which its head office or principal place of business is located, which in turn permits the Applicant to carry on certain activities, including brokerage and execution activities, in that jurisdiction that registration as a “futures commission merchant” under the CFA and dealer registration under the OSA would permit it to carry on in Ontario, on the basis that it provides such services exclusively to GEL Affiliates as principal to all transactions executed by the Applicant (whether directly or via an Ontario Adviser as agent for GEL Affiliates);
32. All Representatives who would execute trades in foreign contracts for GEL Affiliates have passed applicable futures and options proficiency examinations and/or examinations required by applicable exchanges.

**AND UPON** the Commission and Director being satisfied that it would not be prejudicial to the public interest to grant the order requested;

**IT IS RULED** pursuant to section 38 of the CFA that the Applicant is not subject to the dealer registration requirements in the CFA or the trading restrictions in the CFA in connection with trades in foreign contracts where the Applicant is acting as principal or agent in such trades to, from or on behalf of a GEL Affiliate and/or its Ontario Adviser provided that:

- (a) each GEL Affiliate effecting trades in foreign contracts is a Permitted Client;
- (b) none of the investors of a GEL Affiliate are located in Ontario;
- (c) any Non-GEL Clearing Broker has represented and covenanted to the Applicant and the GEL Affiliates that it is appropriately registered or exempt from registration under the CFA;
- (d) the Applicant only executes trades in foreign contracts pursuant to this Decision for GEL Affiliates;
- (e) at the time trading activity is engaged in, the Applicant:
  - (i) has its head office or principal place of business in Jersey, Channel Islands and does not have an office or place of business in Ontario;
  - (ii) engages in the business of a firm authorized to trade in foreign contracts in Jersey, Channel Islands;
  - (iii) operates under an exemption from registration under the securities legislation of the jurisdiction in which its head office is located, which in turn permits the Applicant to carry on certain activities, including brokerage and execution activities, in that jurisdiction that registration as a “futures commission merchant” under the CFA and dealer registration under the OSA would permit it to carry on in Ontario, on the basis that it provides such services exclusively to a GEL Affiliate directly or via an Ontario Adviser as agent for a GEL Affiliate;
- (f) the Applicant has provided to the GEL Affiliate the following disclosure in writing:
  - (i) a statement that the Applicant is not registered in Ontario to trade in foreign contracts as principal or agent;
  - (ii) a statement that the Applicant’s head office or principal place of business is located in Jersey, Channel Islands;
  - (iii) a statement that all or substantially all of the Applicant’s assets may be situated outside of Canada;
  - (iv) a statement that there may be difficulty enforcing legal rights against the Applicant because of the above; and

- (v) the name and address of the Applicant's agent for service of process in Ontario;
- (g) the Applicant has submitted to the Commission a completed *Submission to Jurisdiction and Appointment of Agent for Service* in the form attached as Appendix "A";
- (h) the Applicant pays a participation fee based on its specified Ontario revenues for its previous financial year in compliance with the requirements of Part 3 and section 6.4 of OSC Rule 13-502 *Fees* as if the Applicant relied on the "international dealer exemption" under section 8.18 of NI 31-103;
- (i) by December 1st of each year, the Applicant notifies the Commission of its continued reliance on the exemption from the dealer registration requirement granted pursuant to this Decision by filing Form 13-502F4 *Capital Markets Participation Fee Calculation*; and
- (j) this Decision will terminate on the earliest of:
  - (i) the expiry of any transition period as may be provided by law, after the effective date of the repeal of the CFA; and
  - (ii) five years after the date of this Decision.

**AND IT IS FURTHER RULED**, pursuant to section 38 of the CFA, that a GEL Affiliate and/or its Ontario Adviser is not subject to the dealer registration requirements in the CFA or the trading restrictions in the CFA in connection with trades in foreign contracts on Non-Canadian Exchanges where the Applicant acts in connection with trades in foreign contracts on behalf of the GEL Affiliate and/or its Ontario Adviser pursuant to the above ruling.

"Debra Foubert"  
Director, Compliance and Registrant Regulation  
Ontario Securities Commission

OSC File #: 2021/0668

APPENDIX A

**SUBMISSION TO JURISDICTION AND APPOINTMENT OF AGENT FOR SERVICE  
INTERNATIONAL DEALER OR INTERNATIONAL ADVISER EXEMPTED FROM REGISTRATION  
UNDER THE COMMODITY FUTURES ACT,  
ONTARIO**

1. Name of person or company ("**International Firm**");
2. If the International Firm was previously assigned an NRD number as a registered firm or an unregistered exempt international firm, provide the NRD number of the firm:
3. Jurisdiction of incorporation of the International Firm:
4. Head office address of the International Firm:
5. The name, e-mail address, phone number and fax number of the International Firm's individual(s) responsible for the supervisory procedure of the International Firm, its chief compliance officer, or equivalent.  
Name:  
E-mail address:  
Phone:  
Fax:
6. The International Firm is relying on an exemption order under section 38 or section 80 of the *Commodity Futures Act* (Ontario) that is similar to the following exemption in National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (the "**Relief Order**"):   
 Section 8.18 [*international dealer*]   
 Section 8.26 [*international adviser*]   
 Other [specify]:
7. Name of agent for service of process (the "**Agent for Service**");
8. Address for service of process on the Agent for Service:
9. The International Firm designates and appoints the Agent for Service at the address stated above as its agent upon whom may be served a notice, pleading, subpoena, summons or other process in any action, investigation or administrative, criminal, quasi-criminal or other proceeding (a "**Proceeding**") arising out of or relating to or concerning the International Firm's activities in the local jurisdiction and irrevocably waives any right to raise as a defence in any such proceeding any alleged lack of jurisdiction to bring such Proceeding.
10. The International Firm irrevocably and unconditionally submits to the non-exclusive jurisdiction of the judicial, quasi-judicial and administrative tribunals of the local jurisdiction in any Proceeding arising out of or related to or concerning the International Firm's activities in the local jurisdiction.
11. Until 6 years after the International Firm ceases to rely on the Relief Order, the International Firm must submit to the regulator
  - a. a new Submission to Jurisdiction and Appointment of Agent for Service in this form no later than the 30th day before the date this Submission to Jurisdiction and Appointment of Agent for Service is terminated;
  - b. an amended Submission to Jurisdiction and Appointment of Agent for Service no later than the 30th day before any change in the name or above address of the Agent for Service; and
  - c. a notice detailing a change to any information submitted in this form, other than the name or above address of the Agent for Service, no later than the 30th day after the change.
12. This Submission to Jurisdiction and Appointment of Agent for Service is governed by and construed in accordance with the laws of the local jurisdiction.

**B.2: Orders**

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Dated: \_\_\_\_\_

\_\_\_\_\_  
(Signature of the International Firm or authorized signatory)

\_\_\_\_\_  
(Name of signatory)

\_\_\_\_\_  
(Title of signatory)

Acceptance

The undersigned accepts the appointment as Agent for Service of \_\_\_\_\_ [*Insert name of International Firm*] under the terms and conditions of the foregoing Submission to Jurisdiction and Appointment of Agent for Service.

Dated: \_\_\_\_\_

\_\_\_\_\_  
(Signature of the Agent for Service or authorized signatory)

\_\_\_\_\_  
(Name of signatory)

\_\_\_\_\_  
(Title of signatory)

This form, and notice of a change to any information submitted in this form, is to be submitted through the Ontario Securities Commission's Electronic Filing Portal: <https://www.osc.gov.on.ca/filings>

**B.2.2 SEI Investments Canada Company and the Top Funds**

**Headnote**

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Mutual funds that are not a reporting issuers granted 90-day extension of the annual financial statement filing and delivery deadlines under NI 81-106 – Top Funds invests the majority of its assets in Underlying Funds – Underlying Funds are subject to a variety of financial reporting deadlines, in some cases extending beyond annual financial statement filing and delivery deadline under NI 81-106 – Relief granted provided that no less than 25% of the total assets of the Top Fund as at its financial year end of June 30 are invested in Underlying Funds that have financial reporting periods that end on June 30 of each year and subject to laws of their jurisdictions that require their annual financial statements to be delivered within 120 days of their financial year ends.

**Applicable Legislative Provisions**

National Instrument 81-106 Investment Fund Continuous Disclosure, ss. 2.2, 5.1(2)(a), and 17.1.

**August 16, 2022**

**IN THE MATTER OF  
THE SECURITIES LEGISLATION OF  
ONTARIO  
(the “Jurisdiction”)**

**AND**

**IN THE MATTER OF  
SEI INVESTMENTS CANADA COMPANY  
AND  
THE TOP FUNDS  
(as defined below)**

**ORDER**

**Background**

The Ontario Securities Commission (the “**Commission**”) has received an application from SEI Investments Canada Company (the “**Filer**”), as investment fund manager of SEI Global Bond Fund (the “**Initial Top Fund**”) and any other existing or future mutual fund that is not and will not be a reporting issuer, and that is, or will be, managed by the Filer and invests in underlying funds as part of its investment strategy (the “**Future Top Funds**”, and together with the Initial Top Fund, the “**Top Funds**”) for a decision under the securities legislation of the Jurisdiction (the “**Legislation**”) in respect of the Fund-on-Fund Structure (as described below) exempting the Filer and the Top Funds from:

1. the requirement in section 2.2 of National Instrument 81-106 *Investment Fund Continuous Disclosure* (“**NI 81-106**”) that the Top Funds file their audited annual financial statements and auditor’s report (the “**Annual Filing Requirement**”) on or before the 90th day after the Top Funds most

recently completed financial year (the “**Annual Filing Deadline**”); and

2. the requirement in paragraph 5.1(2)(a) of NI 81-106 that the Top Funds deliver their audited financial statement by the Annual Filing Deadline (the “**Annual Delivery Requirement**”)

(collectively, relief from the Annual Filing Requirement and the Annual Delivery Requirement, the “**Requested Relief**”).

**Representations**

This decision is based on the following facts represented by the Filer.

*The Filer*

1. The Filer is an unlimited liability company organized under the laws of the Province of Nova Scotia with its head office in Toronto, Ontario.
2. The Filer is registered as a commodity trading manager in Ontario, investment fund manager, portfolio manager and exempt market dealer in each of Ontario, Québec, and Newfoundland and Labrador, and as a portfolio manager and an exempt market dealer in each of Alberta, British Columbia, Manitoba, New Brunswick, Nova Scotia, Prince Edward Island, Saskatchewan, Northwest Territories, Nunavut and Yukon.
3. The Filer is not a reporting issuer in any jurisdiction and is not in default of securities legislation of any jurisdiction of Canada.
4. The Filer is the investment fund manager and portfolio manager of the Initial Top Fund. The Filer is, or will be, the investment fund manager and portfolio manager of each Future Top Fund. The Filer or a third party will act as trustee of each Top Fund.

*The Top Funds*

5. The Initial Top Fund is a trust organized under the laws of the Province of Ontario pursuant to an amended and restated trust agreement dated September 27, 2021 (the “**Trust Agreement**”). Each Future Top Fund will be organized as a pooled fund trust or limited partnership under the laws of Ontario.
6. Each Top Fund will be a “mutual fund” for the purpose of the Legislation.
7. Securities of each Top Fund will only be offered for sale on a continuous basis to qualified investors in all provinces and territories in Canada pursuant to an exemption from the prospectus requirements under National Instrument 45-106 *Prospectus Exemptions* (“**NI 45-106**”).

8. Units of each Top Fund will only be distributed in Canada pursuant to exemptions from the prospectus requirement in accordance with NI 45-106.
9. None of the Top Funds is, or will be, a reporting issuer in any province or territory of Canada.
10. In order to ensure the efficiency of operations, minimize fund costs and to avoid duplicating the substantive testing procedures and processes completed by the auditors of the Top Funds (including, for example, the security valuations and testing of controls and procedures associated with the reliance on service organization controls (SOC) report completed by the auditors of the Top Funds), each Top Fund has the same financial year end, being June 30.
11. The Initial Top Fund invests in units of underlying funds (the “**Initial Underlying Funds**”).
12. In addition, each Top Fund may also invest in units of one or more future underlying funds (each, a “**Future Underlying Fund**” and, together with the Initial Underlying Funds, the “**Underlying Funds**”) which investment or investments will be consistent with the Top Fund’s investment objectives and strategies. Each Top Fund is expected to at all times be only a very minor securityholder in the Underlying Fund(s) in which such Top Fund invests.
13. Each Top Fund will have its own investment objective. In order to meet its investment objective, the investment strategy of each Top Fund is, or will be, to invest all or substantially all of the Top Fund’s assets in one or more Underlying Funds that are not reporting issuers in Canada and that are managed and/or advised by the Filer or one of the Filer’s affiliates.
14. The Filer believes that investing in the Underlying Funds offers benefits not available through a direct investment in the companies, other issuers or assets held by the Underlying Fund. The Filer desires to offer exposure to the Underlying Funds to its Canadian clients because it believes such Underlying Funds will be attractive and appropriate solutions for Canadian clients.
15. Securities of the Underlying Funds are typically redeemable on a daily basis. Each Top Fund is able to manage its own liquidity requirements taking into consideration the frequency at which the securities of the Underlying Funds may be redeemed.
16. The net asset value of each Top Fund (“**NAV**”) is calculated on a daily basis on each business day (the “**Valuation Day**”). Investors of each Top Fund are provided with the NAV on a daily basis.
17. The investment holdings of each Top Fund of securities of the Underlying Funds will be disclosed in the financial statements of such Top Fund.

*Financial Statements*

18. Generally, section 2.2 and subsection 5.1(2)(a) of NI 81-106 require a Top Fund to file and deliver its annual audited financial statements by the Annual Filing Deadline. As each Top Fund’s financial year-end is or will be June 30, they will each have a filing and delivery deadline of September 28.
19. Section 2.11 of NI 81-106 provides an exemption (the “**Filing Exemption**”) from the Annual Filing Requirement if, among other things, an investment fund delivers its annual financial statements in accordance with part 5 of NI 81-106 by the Annual Filing Deadline.
20. In order to formulate an opinion on the financial statement on each Top Fund, the Top Fund’s auditor requires audited financial statements of the respective Underlying Funds in order to audit the information contained in the Top Fund’s financial statements. The auditors of the Top Funds have advised the Filer that they will be unable to complete the audit of each Top Fund’s annual financial statements until the audited financial statements of the Underlying Funds are completed and available to the respective Top Fund.
21. The Underlying Funds may be domiciled in Ireland or other international jurisdictions.
22. The Underlying Funds may have varying financial year-ends and may be subject to a variety of financial reporting deadlines. For example, a material amount of the assets of the Top Funds invested in Underlying Funds will be in Underlying Funds that are governed by laws that require the financial statements to be filed within 120 days of the financial year end of the Underlying Fund.
23. In most cases, the Top Funds will not be able to obtain the financial statements of the Underlying Funds sooner than the deadline for filing the financial statements of the Underlying Funds and, in all cases, no sooner than other unitholders of the Underlying Funds receive the financial statements of the Underlying Funds.
24. Although the Filer and the manager of the Underlying Funds are, or will be, affiliated, the added cost associated with having the Underlying Funds change their financial reporting deadlines in order to provide their financial statements at an earlier date outweigh the expected benefit to the unitholders in the Top Funds (the “**Fund Unitholders**”).
25. The offering memorandum, if any, of each Top Fund that will be provided to investors will disclose or investors will be otherwise notified that annual audited financial statements for the Top Fund will be filed and delivered within 180 days of financial year end, subject to regulatory approval.

## B.2: Orders

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26. The Filer will notify Fund Unitholders that it has received and intends to rely on relief from the Annual Filing Deadline and Annual Delivery Requirement.
  27. The Filer does not anticipate it will be able to rely on the Filing Exemption since it is unable to prepare and deliver the financial statements and auditor's report within ninety (90) days after the Top Fund's most recently completed financial year.
  28. It is expected that each Top Fund will not be able to file the annual audited financial statements of the Top Fund by the Annual Filing Deadline. As a result, the Top Fund will not be able to meet the Annual Delivery Requirement. The Filer expects this timing delay in the completion of its annual audited financial statements to occur every year for the foreseeable future.
  29. Each Top Fund therefore seeks an extension of the Annual Filing Deadline and Annual Delivery Requirement to permit delivery within 180 days of the Fund's year end, to enable the Top Fund's auditors to first receive the audited financial statements of the Underlying Funds so as to be able to prepare the Top Fund's annual audited financial statements.
6. The Top Fund notifies Fund Unitholders that the Top Fund has received and intends to rely on relief from the filing and delivery requirements under section 2.2 and subsection 5.1(2)(a) of NI 81-106.
  7. The Top Fund is not a reporting issuer and the Filer is an unlimited liability company organized under the Province of Nova Scotia with its head office in Toronto, Ontario and has the necessary registrations to carry out its operations in each jurisdiction of Canada in which it operates.
    - (a) The audited annual financial statements of the Top Fund are filed on or before the 180th day after the Top Fund's most recently completed financial year; or
    - (b) the conditions in section 2.11 of NI 81-106 are met, except for paragraph 2.11(b), and the annual audited financial statements are delivered to Fund Unitholders in accordance with Part 5 of NI 81-106 on or before the 180th day after the Top Fund's most recently completed financial year.
  8. The Requested Relief terminates within one year of the coming into force of any amendment to NI 81-106 or other rule that modifies how the Annual Filing Requirement or Annual Delivery Requirement applies in connection with mutual funds under the Legislation.

### Decision

The Commission is satisfied that the decision meets the test set out in the Legislation for the Commission to make the decision.

The decision of the Commission under the Legislation is that the Requested Relief is granted to a Top Fund for so long as:

1. The Top Fund has a financial year ended June 30.
2. The Top Fund's investment strategy is to invest its assets in one or more Underlying Funds that are not reporting issuers in Canada.
3. The Top Fund invests the majority of its assets in Underlying Funds.
4. No less than 25% of the total assets of the Top Fund as at its financial year end of June 30 are invested in Underlying Funds that have financial reporting periods that end on June 30 of each year and are subject to laws of their jurisdictions that require their financial statements to be delivered within 120 days of their financial year ends.
5. The offering memorandum, if any, of each Top Fund that will be provided to investors in such Top Fund will disclose or investors will be otherwise notified that the annual audited financial statements for the Top Fund will be filed and delivered within 180 days of financial year end, subject to regulatory approval.

"Neeti Varma"  
Manager, Investment Funds and Structured Products Branch  
Ontario Securities Commission

Application File #: 2022/0245

### B.2.3 TWX Group Holding Limited

#### Headnote

National Policy 11-207 Failure-to-File Cease Trade Orders and Revocations in Multiple Jurisdictions – Application by an issuer for a revocation of dual cease trade order issued by the Commission and British Columbia Securities Commission – cease trade order issued because the issuer had failed to file certain continuous disclosure materials required – defaults subsequently remedied by bringing continuous disclosure filings up-to-date – Ontario opt-in to revocation order issued by British Columbia Securities Commission, as principal regulator.

#### Applicable Legislative Provisions

Securities Act, R.S.O. 1990, c. S.5, as am., ss. 127 and 144.

National Policy 11-207 Failure-to-File Cease Trade Orders and Revocations in Multiple Jurisdictions.

Citation: 2022 BCSECCOM 298

## REVOCATION ORDER

### TWX GROUP HOLDING LIMITED

### UNDER THE SECURITIES LEGISLATION OF BRITISH COLUMBIA AND ONTARIO (the Legislation)

#### Background

- ¶ 1 TWX Group Holding Limited (the Issuer) is subject to a failure-to-file cease trade order (the FFCTO) issued by the regulator of the British Columbia Securities Commission (the Principal Regulator) and Ontario (each a Decision Maker) respectively on January 6, 2021.
- ¶ 2 The Issuer has applied to each of the Decision Makers under National Policy 11-207 Failure-to-File Cease Trade Orders and Revocation in Multiple Jurisdictions (NP 11-207) for an order revoking the FFCTO.
- ¶ 3 This order is the order of the Principal Regulator and evidences the decision of the Decision Maker in Ontario.

#### Interpretation

- ¶ 4 Terms defined in National Instrument 14-101 *Definitions* or in NP 11-207 have the same meaning if used in this order, unless otherwise defined.

#### Order

- ¶ 5 Each of the Decision Makers is satisfied that the order to revoke the FFCTO meets the test set out in the Legislation for the Decision Maker to make the decision.
- ¶ 6 The decision of the Decision Makers under the Legislation is that the FFCTO is revoked as it applies to the Issuer.
- ¶ 7 August 18, 2022

“Allan Lim, CPA, CA”  
Manager, Corporate Disclosure  
Corporate Finance

## B.3 Reasons and Decisions

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### B.3.1 Nasdaq CXC Limited

#### Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – relief from subsection 7.1(1) of National Instrument 21-101 Marketplace Operation to permit Nasdaq to implement a new functionality that would allow for interaction between conditional orders and firm dark orders.

#### Applicable Legislative Provisions

Section 7.1 of National Instrument 21-101 Marketplace Operation.

Section 15.1 of National Instrument 21-101 Marketplace Operation.

Section 3.6 of National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions.

August 18, 2022

**IN THE MATTER OF  
THE SECURITIES LEGISLATION OF  
ONTARIO,  
QUEBEC,  
BRITISH COLUMBIA,  
ALBERTA,  
SASKATCHEWAN,  
MANITOBA,  
NOVA SCOTIA,  
NEW BRUNSWICK,  
PRINCE EDWARD ISLAND,  
NEWFOUNDLAND AND LABRADOR,  
NORTHWEST TERRITORIES,  
NUNAVUT  
AND  
YUKON  
(the Jurisdictions)**

**AND**

**IN THE MATTER OF  
THE PROCESS FOR EXEMPTIVE RELIEF APPLICATIONS  
IN MULTIPLE JURISDICTIONS**

**AND**

**IN THE MATTER OF  
NASDAQ CXC LIMITED  
(the Filer)**

**DECISION**

#### Background

The securities regulatory authority or regulator in each of the Jurisdictions (**Decision Maker**) has received an application from the Filer for a decision under the securities legislation of the Jurisdictions (the **Legislation**) for an exemption from the requirement in subsection 7.1(1) of National Instrument 21-101 - *Marketplace Operation* (**NI 21-101**) to provide accurate and timely information regarding orders for the exchange-traded securities displayed by the marketplace to an information processor as required by the information processor or, if there is no information processor, to an information vendor that meets the standards set by a regulation services provider in respect of a Conditional Order Interaction (as defined below) (the **Exemptive Relief Sought**).

Under the Process for Exemptive Relief Applications in Multiple Jurisdictions (for a coordinated review application):

- (a) the Ontario Securities Commission is the principal regulator for this application, and
- (b) the decision is the decision of the principal regulator and evidences the decision of each other Decision Maker.

#### Interpretation

Terms defined in National Instrument 14-101 – *Definitions*, Multilateral Instrument 11-102 - *Passport System*, National Policy 11-203 *Process for Exemptive Relief in Multiple Jurisdictions* and NI 21-101 have the same meaning if used in this decision, unless otherwise defined.

#### Representations

This decision is based on the following facts represented by the Filer:

##### **The Filer**

1. The Filer is a corporation established under the *Canada Business Corporations Act*.
2. The Filer's head office is in Toronto, Ontario, Canada.
3. The Filer operates a "recognized exchange" as defined in NI 21-101 (the **Exchange**).
4. The Filer is not in default of securities legislation in any jurisdiction.
5. The Filer proposes to introduce a trading functionality whereby participants may enter non-committed orders that generate an invitation to send a firm order when there is a contra-side match (**Conditional Order**).

##### **PureStream Orders and Conditional Orders**

1. The Filer proposes to offer the "PureStream" order type to Nasdaq Canada members (**Members**) on the Nasdaq Canada CXD Trading Book (**CXD**), which is a 'dark' book.
2. PureStream orders will only interact with other PureStream orders. Purestream orders will not interact with any other order types on CXD.
3. PureStream orders are paired with one another based on a specified liquidity transfer rate, instead of a specific price. A liquidity transfer rate, or "**LTR**" indicates the percentage volume of a Reference Trade (see below) a user is willing to trade.
4. A Reference Trade is any trade of at least one standard trading unit of a particular security displayed in a consolidated market display other than a reported trade resulting from a match between two PureStream orders (subject to certain exceptions).
5. When orders are paired, streams are established which are held by the Nasdaq Canada system until a Reference Trade occurs. When a Reference Trade occurs, a match is generated from orders paired in a stream based on their LTR and printed on the market at the price of the Reference Trade as bona fide trades.
6. Exchange Members are able to use a conditional parameter that can be added to any PureStream order.
7. Liquidity Seeking Orders (or "**LS Orders**") are PureStream orders where an infinite LTR parameter is applied. Because LS Orders are not constrained by a LTR, they are immediately available to match with any contra-side LS Orders at the midpoint of the protected National Best Bid Offer (**NBBO**) and do not require a Reference Trade to match. While LS Orders can trade against one another at the midpoint immediately, they can also be paired in a stream and trade in response to a Reference Trade at the paired LTR for that stream.
8. A conditional order parameter that is added to any PureStream order is eligible to interact with any other PureStream order with the exception of Liquidity Seeking Orders marked Immediate-or-Cancel and orders marked Stream-or-Kill. For those, a Member must communicate the intention to interact with Conditional Orders explicitly.
9. Whereas other contra-side PureStream orders immediately pair with one another when eligible to establish a stream, a Conditional Order does not require a firm commitment to trade. Instead, when it is possible for a Conditional Order to be paired with one or more orders, a 'firm-up' request will be sent to the Member who entered the Conditional Order and the Member will be given a short time window in which to act on the firm-up request by entering a new order that is then considered firm.

### B.3: Reasons and Decisions

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10. The only information that is shared through the firm-up request is symbol and side. The firm-up request does not display the size of the order, the price or the identity of the potential counterparty.
11. When a new order is sent in response to a firm-up request, a Member is able to modify the order instructions, which may or may not impact the order's pairing priority or opportunity to pair. If the Member does not respond to a firm-up request in the time window provided, the Conditional Order will be rejected and not treated as an order. Conditional Orders are able to be paired with both Conditional Orders and other orders.
12. Conditional Orders will facilitate large-sized trades, as they will only be available in respect of PureStream orders which are subject to a minimum order size (**Minimum Order Size**) that is either (a) greater than 50 standard trading units and \$30,000 in nominal value, or (b) greater than \$100,000 in nominal value.
13. Only the Member who entered the Conditional Order can see the size of the order and the price, which they entered, and the contra side of a Conditional Order will not have any visible information.

#### **Policy Rationale**

14. Where a Conditional Order receives a firm-up request from a PureStream order that has not added a conditional parameter (the **Conditional Order Interaction**), this could be considered to be a "display" of the PureStream order that generated the firm-up request.
15. The Conditional Order Interaction will give Members the opportunity to seek price improvement on large size orders while minimizing market impact. If the Filer were required to comply with the pre-trade transparency requirements in subsection 7.1(1) of NI 21-101 with respect to a Conditional Order Interaction, the anticipated benefits of Conditional Orders would be lost.
16. Guidance in subsection 5.1(4) of Companion Policy 21-101CP (**21-101CP**) outlines criteria that the securities regulatory authority may consider in granting an exemption from the pre-trade transparency requirements in subsection 7.1(1) of NI 21-101.
17. The Filer believes that the Exemptive Relief Sought can be granted because:
  - (a) a Conditional Order Interaction will be limited to the Minimum Order Size;
  - (b) PureStream orders that are available to interact with Conditional Orders have consented to the Conditional Order Interaction. We consider a participant to have opted into interacting with Conditional Orders by nature of entering a PureStream order in the system. If the participant does not want to interact with a Conditional Order we expect that participant not to use the PureStream order type. Liquidity Seeking Orders marked Immediate-or-Cancel and orders marked Stream-or-Kill must explicitly opt-in to interacting with Conditional Orders.
  - (c) when a firm-up invitation is provided to the Member who entered the Conditional Order, such invitation will only provide symbol and side (i.e., buy or sell), of the PureStream order. The size of the PureStream order cannot be inferred with precision, other than that it meets the Minimum Order Size for all PureStream orders (i.e., (a) greater than 50 standard trading units and \$30,000 in nominal value, or (b) greater than \$100,000 in nominal value.)
  - (d) when a firm-up invitation is provided to the Member who entered the Conditional Order, the Member receiving the invitation will be unable to determine whether the contra side order is another Conditional Order or a firm PureStream order and therefore, will not be able to determine whether the contra-side liquidity is immediately actionable, and
  - (e) there can be no guarantee that the Member who entered the Conditional Order will 'firm up' the invitation in a Conditional Order Interaction.
18. In addition, subsection 5.1(4) of 21-101CP provides that, in granting an exemption, the securities regulatory authority may consider whether each order entered on the marketplace meets the size threshold set by a regulation services provider as provided in subsection 7.1(2) of NI 21-101. As of the date of this Order, no size threshold has been set. However, the Filer believes that the Minimum Order Size is an appropriate size threshold for an exemption contemplated in subsection 5.1(4) of 21-101CP.

#### **Decision**

Each of the Decision Makers is satisfied that the decision meets the test set out in the Legislation for the Decision Maker to make the decision.

### B.3: Reasons and Decisions

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The decision of the Decision Makers under the Legislation is that the Exemptive Relief Sought is granted provided that:

- a. Interaction with Conditional Orders applies to participant orders that have consented to interact with Conditional Orders. We consider a participant to have opt-ed into interacting with Conditional Orders by nature of entering a PureStream order in the system. If the participant does not want to interact with a Conditional Order we expect that participant not to use the PureStream order type. Liquidity Seeking Orders marked Immediate-or-Cancel and orders marked Stream-or-Kill must explicitly opt-in to interact with Conditional Orders.
- b. PureStream orders and Conditional Orders meet the Minimum Order Size.
- c. An invitation to firm up through a Conditional Order Interaction conveys only symbol and side as known order elements; information about price or quantity is not conveyed and may only be inferable without precision.
- d. An invitation to firm up through a Conditional Order Interaction does not enable the recipient to determine whether the contra-side liquidity is immediately actionable.
- e. The Filer will test the Conditional Order Interaction feature prior to implementation to ensure the functionality works as designed.
- f. The Filer will analyze the impact of the Conditional Order Interaction feature and will share the results with the Decision Makers. The manner and format of the analysis will be agreed to with staff of the Decision Makers no later than 90 days after the signing of this decision.

“Michelle Alexander”  
Manager, Market Regulation  
Ontario Securities Commission

### B.3.2 BGP Acquisition Corp.

#### Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Issuer granted relief from certain restricted security requirements under National Instrument 41-101 General Prospectus Requirements – relief granted subject to conditions.

OSC Rule 56-501 Restricted Shares – Issuer granted relief from certain restricted share requirements under OSC Rule 56-501 – relief granted subject to conditions.

#### Applicable Legislative Provisions

National Instrument 41-101 General Prospectus Requirements, ss. 12.3, and 19.1.  
OSC Rule 56-501 Restricted Shares, Part 3, and s. 4.2.ii.

August 17, 2022

IN THE MATTER OF  
THE SECURITIES LEGISLATION OF  
ONTARIO  
(the “Jurisdiction”)

AND

IN THE MATTER OF  
THE PROCESS FOR EXEMPTIVE RELIEF APPLICATIONS  
IN MULTIPLE JURISDICTIONS

AND

IN THE MATTER OF  
BGP ACQUISITION CORP.  
(the “Filer”)

DECISION

#### Background

The principal regulator in the Jurisdiction has received an application from the Filer, a special purpose acquisition corporation, in connection with a potential future qualifying transaction (the “**Qualifying Transaction**”), pursuant to which the share capital of Filer will undergo the following changes:

- (i) each Class A Restricted Voting Share (“**Class A Restricted Voting Share**”) will, unless previously redeemed, be automatically converted into one subordinate voting share (“**Subordinate Voting Share**”); and
- (ii) each Class B Share (“**Class B Share**”) will, be automatically converted on a 100-for-1 basis into proportionate voting shares (“**PV Shares**” and, collectively with the Subordinate Voting Shares, the “**Shares**”)

(collectively, the “**Share Exchange**”).

In connection with the Qualifying Transaction and the Share Exchange, the Filer has applied for a decision under the securities legislation of the Jurisdiction of the principal regulator (the “**Legislation**”) that the requirements under:

- (i) section 12.3 of National Instrument 41-101 *General Prospectus Requirements* (“**NI 41-101**”) for a prospectus distribution of restricted securities, or subject securities, or securities that are directly or indirectly convertible into, or exercisable or exchangeable for, restricted securities or subject securities (the “**Prospectus Eligibility Exemption**”); and
- (ii) part 3 of Ontario Securities Commission Rule 56-501 Restricted Shares (“**OSC Rule 56-501**”) relating to the withdrawal of prospectus exemptions for distributions of restricted shares, or subject securities, or securities that are directly or indirectly convertible into, or exercisable or exchangeable for, restricted securities or subject securities (the “**OSC Rule 56-501 Withdrawal Exemption**”) in connection with stock distributions (as defined in OSC Rule 56-501) of the Filer;

### B.3: Reasons and Decisions

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shall not apply to the Filer in connection with the Qualifying Transaction and any future distributions of Subordinate Voting Shares, PV Shares, or distributions of securities that are, directly or indirectly, convertible into, or exercisable or exchangeable for, Subordinate Voting Shares or PV Shares.

The Prospectus Eligibility Exemption, together with the OSC Rule 56-501 Withdrawal Exemption will be referred to herein as the **Exemptions Sought**.

Under the Process for Exemptive Relief Applications in Multiple Jurisdictions (for a passport application):

- (a) the Ontario Securities Commission is the principal regulator for this application; and
- (b) the Filer has provided notice that section 4.7(1) of Multilateral Instrument 11-102 – *Passport System* (“**MI 11-102**”) is intended to be relied upon in British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, New Brunswick, Nova Scotia, Prince Edward Island, and Newfoundland (together with Ontario, the “**Jurisdictions**”) in respect of the Prospectus Eligibility Exemption.

#### Interpretation

Terms defined in National Instrument 14-101 – *Definitions*, MI 11-102, NI 41-101, and OSC Rule 56-501 have the same meaning if used in this decision, unless otherwise defined.

#### Representations

The decision is based on the following facts represented by the Filer:

1. The Filer is a corporation incorporated under the laws of British Columbia on May 22, 2020 and its registered and head office is located at Suite 1500 – 1055 West Georgia Street, Vancouver, British Columbia, V6E 4N7.
2. The Filer is a reporting issuer in the Jurisdictions and is not in default under the securities legislation in force in any of the Jurisdictions.
3. The Filer was created for the purposes of effecting, directly or indirectly, an acquisition of one or more businesses or assets. The Filer is specifically focusing its search of the noted acquisition to businesses involved in cannabis production and/or distribution and/or related sectors, however, the Filer is not limited to particular industry or geographic region for the purposes of the Qualifying Transaction.
4. The Class A Restricted Voting Shares were offered to the public pursuant to an initial public offering (the “**IPO**”) under a long form prospectus dated January 28, 2021 (the “**Prospectus**”). On February 4, 2021, the Filer announced that it raised US\$115,000,000 from the sale of “Class A Restricted Voting Units” under the IPO (including \$15,000,000 of Class A Restricted Voting Units issued pursuant to the full exercise of the over-allotment option). Each Class A Restricted Voting Unit consisted of one Class A Restricted Voting Share and one-half of a warrant (“**Warrant**”), with each whole Warrant becoming exercisable 65 days following the Qualifying Transaction at a price of US\$11.50 per each Subordinate Voting Share.
5. The authorized capital of the Filer consists of an unlimited number of Class A Restricted Voting Shares, an unlimited number of Class B Shares, an unlimited number of Subordinate Voting Shares and an unlimited number of PV Shares.
6. As at the date hereof, the Filer had outstanding 11,500,000 Class A Restricted Voting Shares, 3,475,001 Class B Shares and 5,940,000 Warrants. The Filer has no other shares or warrants outstanding.
7. The Class A Restricted Voting Shares and Warrants are listed and posted for trading in Canada on the Neo Exchange (the “**NEO**”) under the symbols “BGP.U” and “BGP.WT.U”, and on the OTCQX under the symbols “BGPPF” and “BGPAF”, respectively. The Class B Shares are not listed or posted for trading on any stock exchange, nor is it anticipated that the Class B Shares will be listed or posted for trading on any exchange in the future.
8. As disclosed in the Prospectus, 100% of the gross proceeds from the sale of the Class A Restricted Voting Shares (and warrants attached to such shares) are held in escrow by Odyssey Trust Company, pending the completion of a Qualifying Transaction (the “**Escrow Amount**”).
9. As the Filer has deposited 100% of the proceeds from the sale of the Class A Restricted Voting Units into escrow, pursuant to the rules of the NEO, the Filer is not required to hold a shareholder meeting to consider the approval of the Qualifying Transaction.
10. As disclosed in the Prospectus, the Class A Restricted Voting Shares are entitled to one vote per share, other than on matters relating to the election and/or removal of the directors and auditors prior to the closing of the Qualifying

Transaction. It is not currently expected that any meetings involving the holders of Class A Restricted Voting Shares will take place.

11. However, holders of Class A Restricted Voting Units will have the opportunity to redeem all or a portion of their Class A Restricted Voting Units, provided that they deposit their shares for redemption prior to the deadline specified by the Corporation, following public disclosure of the details of the qualifying transaction and prior to the closing of the qualifying transaction, of which prior notice had been provided to the holders of the Class A Restricted Voting Shares by any means permitted by the Exchange, not less than 21 days nor more than 60 days in advance of such deadline, in each case, with effect, subject to applicable law, immediately prior to the closing of the Qualifying Transaction, for an amount per share, payable in cash, equal to the pro-rata portion (per Class A Restricted Voting Share) of: (A) the Escrow Amount, including interest and other amounts earned thereon; less (B) an amount equal to the total of (i) any applicable taxes payable by the Filer on such interest and other amounts earned in the escrow account, and (ii) actual and expected expenses directly related to the redemption, each as reasonably determined by the Filer, subject to the limitations described in the Prospectus. Holders of Class A Restricted Voting Shares who exercise the redemption right shall, subject to applicable law, be paid such amount on closing of the Qualifying Transaction (the “**Redemption Right**”).
12. Notwithstanding the foregoing redemption rights, each holder of Class A Restricted Voting Shares, together with any affiliate of such holder or other person with whom such holder or affiliate is acting jointly or in concert, will not be permitted to redeem more than an aggregate of 15% of the number of Class A Restricted Voting Shares issued and outstanding. This limitation will not apply in the event a Qualifying Transaction does not occur within the allowable time period within which the Filer must consummate its Qualifying Transaction (the “**Permitted Timeline**”), or in the event of an extension to the Permitted Timeline.
13. On July 26, 2022, the Filer announced that it had entered into a non-binding letter of intent in connection with a potential transaction, which would, if consummated, qualify as its Qualifying Transaction. Accordingly, the Filer’s Permitted Timeline was automatically extended to November 4, 2022.
14. The Class B Shares are entitled to one vote per share and will receive notice of all shareholder meetings. The holders of Class B Shares are not entitled to access, or benefit from, the proceeds in the Escrow Amount. The holders of Class B Shares are BGP Acquisition Sponsor LP (the “**Sponsor**”), Ruth Epstein, Don Jennings, Brian Kabot, Lisa Sergi Trager, Erik Ott and Scott Riley (collectively, the “**Founders**”). The Sponsor and the Founders are involved in the Filer’s management. Class B Shares do not have any redemption rights.
15. Immediately prior to the closing of the Qualifying Transaction, the Class B Shares will convert on a 100-for-1 basis into PV Shares and each Class A Restricted Voting Share, not otherwise redeemed pursuant to the Redemption Right, will convert into one (1) Subordinate Voting Share. No other PV Shares or Subordinate Voting Shares will be issued before the closing of the Qualifying Transaction.
16. In connection with the Qualifying Transaction, the Filer will:
  - (a) prepare and file a long form prospectus containing disclosure about the Qualifying Transaction (the “**Qualifying Transaction Prospectus**”);
  - (b) mail a notice of redemption to the holders of the Class A Restricted Voting Units at least 21 days prior to the redemption deadline; and
  - (c) send by prepaid mail or otherwise deliver the Qualifying Transaction Prospectus to the holders of the Class A Restricted Voting Units no later than midnight (Toronto time) on the second business day prior to the deadline for redemption, which delivery may be effected electronically.
17. As disclosed in the Prospectus (and as will be disclosed in the Qualifying Transaction Prospectus), upon closing of the Qualifying Transaction, the Share Exchange will occur.
18. As such, pursuant to the Share Exchange, the Filer will issue one PV Share for each 100 Class B Shares. Each PV Share entitles the holder thereof to 100 votes at subsequent shareholder meetings. Each PV Share is convertible at a ratio of one PV Share for 100 Subordinate Voting Shares. Lastly, in the event of the liquidation, dissolution or winding-up of the Filer, each PV Share is entitled to 100 times the amount distributed per each Subordinate Voting Share.
19. Upon completion of the Qualifying Transaction, the PV Shares will constitute subject securities (as defined in NI 41-101 and OSC Rule 56-501) and the Filer’s only issued and outstanding subject securities will be the PV Shares, or securities that are, directly or indirectly, convertible into, or exercisable or exchangeable for PV Shares.
20. Following the Qualifying Transaction:

- (a) The Subordinate Voting Shares may, at any time, at the option of the holder thereof and with the consent of the Filer, be converted into PV Shares on the basis of one (1) Subordinate Voting Share for one one-hundredth (0.01) of a PV Share.
  - (b) Subject to certain restrictions in place to maintain the Filer's status as a "foreign private issuer" for US securities law purposes, the PV Shares may at any time, at the option of the holder thereof, be converted into Subordinate Voting Shares on the basis of one hundred (100) Subordinate Voting Shares for one (1) PV Share, with fractional PV Shares convertible into Subordinate Voting Shares on the same ration. If the board of directors of the Filer determines that it is no longer advisable to maintain the PV Shares as a separate class of shares, then the PV Shares shall be converted into Subordinate Voting Shares on the basis of one hundred (100) Subordinate Voting Shares for one (1) PV Share, with fractional PV Shares convertible into Subordinate Voting Shares on the same ratio.
  - (c) Each PV Share will be entitled to dividends if, as and when dividends are declared by the board of directors, with each PV Share being entitled to one hundred (100) times the amount paid or distributed per Subordinate Voting Share (or, if a stock dividend is declared, each PV Share shall be entitled to receive the same number of PV Shares per PV Share as the number of Subordinate Voting Shares entitled to be received per Subordinate Voting Share), and fractional PV Shares will be entitled to the applicable fraction thereof, and otherwise without preference or distinction among or between the Shares.
  - (d) In the event of the liquidation, dissolution or winding-up of the Filer, the holders of Shares are entitled to participate in the distribution of the remaining property and assets of the Filer, with each PV Share being entitled to one hundred (100) times the amount distributed per Subordinate Voting Share and fractional PV Shares will be entitled to the applicable fraction thereof, and otherwise without preference or distinction among or between the Shares.
  - (e) The holders of Subordinate Voting Shares and PV Shares will be entitled to receive notice of, attend and vote at any meeting of shareholders of the Filer, except those meetings at which holders of a specific class of shares are entitled to vote separately as a class under the BCBCA.
  - (f) The Subordinate Voting Shares will carry one (1) vote per share and the PV Shares will carry one hundred (100) votes per share. Fractional PV Shares will be entitled to the number of votes calculated by multiplying the fraction by one hundred (100).
21. The rights, privileges, conditions and restrictions attaching to the Shares may be modified if the amendment is authorized by not less than 2/3 of the votes cast at a meeting of holders of the Shares duly held for that purpose. However, if the holders of PV Shares, as a class, or the holders of Subordinate Voting Shares, as a class, are to be affected in a manner materially different from such other class of Shares, the amendment must, in addition, be authorized by not less than 2/3 of the votes cast at a meeting of the holders of the class of shares which is affected differently.
22. No subdivision or consolidation of the Subordinate Voting Shares or PV Shares may be carried out unless, at the same time, the shares of the other class are subdivided or consolidated in the same manner and on the same basis, so as to preserve the relative rights of the holders of each such class of Shares.
23. In addition to the conversion rights described above, if an offer ("**Offer**") is made for PV Shares where: (a) by reason of applicable securities legislation or stock exchange requirements, the offer must be made to all holders of the class of PV Shares; and (b) no equivalent offer is made for the Subordinate Voting Shares, the holders of Subordinate Voting Shares shall have the right, at their option, to convert their Subordinate Voting Shares into PV Shares for the purposes of allowing the holders of the Subordinate Voting Shares to tender the Offer.
24. In the event that holders of Subordinate Voting Shares are entitled to convert their Subordinate Voting Shares into PV Shares in connection with an Offer, holders of an aggregate of Subordinate Voting Shares less than one hundred (100) (an "**Odd Lot**") will be entitled to convert all but not less than all of such Odd Lot of Subordinate Voting Shares into an applicable fraction of one PV Share, provided that such conversion into a fractional PV Share will be solely for the purpose of tendering the fractional PV Share to the Offer in question and that any fraction of a PV Share that is tendered to the Offer but that is not, for any reason, taken up and paid for by the offeror will automatically be reconverted into the Subordinate Voting Share that existed prior to such conversion.
25. The ability for holders of PV Shares to convert their shares to Subordinate Voting Shares is subject to certain conditions in order to maintain the Filer's status as a "foreign private issuer" under U.S. securities laws. The compressed nature of the PV Shares was also established for the purpose of maintaining the Filer's status as a "foreign private issuer" under U.S. securities laws.
26. After the Qualifying Transaction, the Filer will not issue any more Class A Restricted Voting Shares or Class B Shares.

### **B.3: Reasons and Decisions**

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27. 65 days after the closing of the Qualifying Transaction, each whole Warrant becomes exercisable for Subordinate Voting Shares at a price of US\$11.50 per Subordinate Voting Share.
28. The Prospectus provides detailed disclosure on the terms of the Class A Restricted Voting Shares, the Class B Shares, the Subordinate Voting Shares and the PV Shares and the conversion of Class A Restricted Voting Shares into Subordinate Voting Shares and Class B Shares into PV Shares in connection with the Qualifying Transaction. The Prospectus also discloses the possibility of future issuance of PV Shares upon the approval of the board of directors of the Filer.
29. Subsequent to the Share Exchange, it is expected that the Subordinate Voting Shares will be listed and posted for trading on the NEO. The PV Shares are not expected to be listed or posted for trading on any exchange.

#### *The Prospectus Eligibility Exemption*

30. The Subordinate Voting Shares will be “restricted securities” within the meaning of NI 41-101 and the PV Shares will be “subject securities” within the meaning of NI 41-101.
31. Subject to certain exemptions, subsection 12.3(1) of NI 41-101 provides that an issuer must not file a prospectus under which restricted securities, subject securities, or securities that are, directly or indirectly, convertible into, or exercisable or exchangeable for, restricted securities or subject securities, are distributed.
32. The Filer cannot rely on the “restricted security reorganization” exemption in paragraph 12.3(1)(b) of NI 41-101 for the future issuance of Subordinate Voting Shares and PV Shares (or securities that are, directly or indirectly, convertible into, or exercisable or exchangeable for, Subordinate Voting Shares or PV Shares) under a prospectus as the Subordinate Voting Shares and PV Shares were created in connection with the closing of the IPO.
33. In addition, it is not practicable for the Filer to receive prior shareholder approval pursuant to paragraph 12.3(1)(a) of NI 41-101 each time it wishes to issue Subordinate Voting Shares or PV Shares (or securities that are, directly or indirectly, convertible into, or exercisable or exchangeable for, Subordinate Voting Shares or PV Shares) under a prospectus.
34. The exemption provided in paragraph 12.3(3)(b) of NI 41-101 is not available in the circumstances because the Filer is already a reporting issuer and as such, will not be a “private issuer” immediately prior to filing any future prospectus. Further, the Filer will not be able to comply with the exemption provided in paragraph 12.3(3)(c) of NI 41-101 because the Prospectus qualified for distribution Class A Restricted Voting Shares and Class B Shares and any future prospectus would qualify for distribution a different class of shares, being the Subordinate Voting Shares and/or the PV Shares.

#### *OSC Rule 56-501 Withdrawal Exemption*

35. The Subordinate Voting Shares will be “restricted shares” and the PV Shares will be “subject securities”, each within the meaning of OSC Rule 56-501.
36. Subject to certain exemptions, subsection 3.2(1) of OSC Rule 56-501 provides that the prospectus exemptions under Ontario securities law will not be available for certain stock distributions of securities, including the distribution of the Subordinate Voting Shares or PV Shares.
37. The Filer cannot rely on the “restricted security reorganization” exemption in subsection 3.2(2) of OSC Rule 56-501 for the future issuance of Subordinate Voting Shares and PV Shares (or securities that are, directly or indirectly, convertible into, or exercisable or exchangeable for, Subordinate Voting Shares or PV Shares) under a prospectus exemption as the Subordinate Voting Shares and PV Shares were created in connection with the closing of the IPO.
38. In addition, it is not practicable for the Filer to receive prior shareholder approval pursuant to subparagraph 3.2(1)(d)(i) of OSC Rule 56-501 each time it wishes to distribute Subordinate Voting Shares or PV Shares (or securities that are, directly or indirectly, convertible into, or exercisable or exchangeable for, Subordinate Voting Shares or PV Shares) under a prospectus exemption.
39. Further, future issuances of Subordinate Voting Shares and PV Shares will not qualify for either of the exemptions found in subparagraphs 3.2(3)(b)(i) or (ii) of OSC Rule 56-501 since the Filer will be a reporting issuer prior to the distribution of the Subordinate Voting Shares and PV Shares, and the Subordinate Voting Shares and/or PV Shares are different classes of securities than the Class A Restricted Voting Shares and Class B Shares which were distributed in connection with the Filer becoming a reporting issuer.

#### **Decision**

The principal regulator is satisfied that the decision meets the test set out in the Legislation for the principal regulator to make the decision.

### B.3: Reasons and Decisions

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The decision of the principal regulator under the Legislation is that the Exemptions Sought are granted provided that:

- (a) in respect of the Prospectus Eligibility Exemption:
  - (i) the representations in paragraphs 18-23, above, continue to apply;
  - (ii) the Filer has no restricted securities (as defined in section 1.1 of NI 41-101) issued and outstanding other than the Subordinate Voting Shares;
  - (iii) the Qualifying Transaction Prospectus and other prospectuses include disclosure consistent with the representations in paragraphs 18-23 above; and
  - (iv) any offering of restricted securities, subject securities or securities directly or indirectly, convertible into, or exercisable or exchangeable into restricted securities or subject securities, other than an offering of Subordinate Voting Shares, PV Shares or other securities that are, directly or indirectly, convertible into, or exercisable or exchangeable for Subordinate Voting Shares or PV Shares, complies with the provisions of section 12.3 of NI 41-101; and
- (b) in respect of the OSC Rule 56-501 Withdrawal Exemption:
  - (i) the representations in paragraphs 18-23, above, continue to apply;
  - (ii) the Filer has no restricted shares (as defined in section 1.1 of OSC Rule 56-501) issued and outstanding other than the Subordinate Voting Shares; and
  - (iii) any stock distribution of restricted shares, subject securities or securities directly or indirectly, convertible into, or exercisable or exchangeable into restricted shares or subject securities, other than a stock distribution of Subordinate Voting Shares, PV Shares or other securities that are directly or indirectly, convertible into, or exercisable or exchangeable for Subordinate Voting Shares or PV Shares, complies with the provisions of section 3.2 of OSC Rule 56-501.

“Lina Creta”  
Manager, Corporate Finance Branch  
Ontario Securities Commission

OSC File #: 2022/0319

**B.3.3 Alexandre Galasso**

**IN THE MATTER OF  
THE SECURITIES ACT,  
R.S.O. 1990, c. S.5,  
AS AMENDED**

**AND**

**IN THE MATTER OF  
ALEXANDRE GALASSO**

**DECISION OF THE DIRECTOR**

1. At all material times, Alexandre Galasso (**Galasso**) was registered under the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the **Act**) as an exempt market dealing representative with Whitehaven Securities Inc.
2. Galasso resides in Québec, and his principal regulator is the *Autorité des marchés financiers*.
3. On June 1, 2022, the *Tribunal administratif des marchés financiers* ordered that Galasso's registration under the securities laws of Québec be suspended for two months, effective July 1, 2022 and that certain terms and conditions be imposed on his registration. These measures were imposed after Galasso admitted that he failed to comply with his know-your-client obligations under National Instrument 31-103 *Registration Requirements, Exemptions, and Ongoing Registrant Obligations*, as well as certain other regulatory obligations as more particularly described in Decision No. 2020-030-001.
4. On July 28, 2022, staff of the Ontario Securities Commission (**Staff**) sent a letter to Galasso (the **Letter**) informing him that they were recommending to the Director that his registration under the Act be suspended until such time as his registration in Québec was reactivated, and that the terms and conditions set out in Schedule A to this Decision (the **Terms and Conditions**), which are substantially the same as the terms and conditions imposed by the *Tribunal administratif des marchés financiers*, be imposed pursuant to s. 28 of the Act.
5. The basis for the regulatory action recommended in the Letter was that it would be objectionable for Galasso to be registered in Ontario during such time as his registration in Québec was suspended.
6. The Letter also informed Galasso of his right to request an opportunity to be heard under s. 31 of the Act if he wished to oppose Staff's recommendation.
7. Galasso has provided written confirmation to Staff that he consents to a suspension of his registration and the imposition of the Terms and Conditions. Accordingly, Galasso's registration was suspended, and the Terms and Conditions were imposed, effective July 29, 2022.

August 18, 2022

"Debra Foubert"  
Director  
Compliance and Registrant Regulation

**Schedule A**

**Terms and Conditions of the Registration of Alexandre Galasso**

The registration of **Alexandre Galasso** (the **Registrant**) as an exempt market dealing representative is subject to the terms and conditions set out below. These terms and conditions were imposed by the Director pursuant to s. 28 of the *Securities Act*, R.S.O. 1990, c. S.5.

**Close Supervision**

1. The Registrant is subject to close supervision for a minimum period of one year from the date his registration is reactivated. Monthly Close Supervision Reports in the form specified in CSA Staff Notice 31-349 *Change to Standard Form Reports for Close Supervision and Strict Supervision Terms and Conditions* are to be completed on the Registrant's sales activities and dealings with clients. The supervision reports are to be retained by the Registrant's sponsoring firm and must be made available to staff of the Ontario Securities Commission for review upon request or as required by the Close Supervision Report.

*These terms and conditions of registration constitute Ontario securities law, and a failure by the Registrant to comply with these terms and conditions may result in further regulatory action against him, including a suspension of his registration.*

B.3.4 Keven Rivard

IN THE MATTER OF  
THE *SECURITIES ACT*,  
R.S.O. 1990, c. S.5,  
AS AMENDED

AND

IN THE MATTER OF  
KEVEN RIVARD

DECISION OF THE DIRECTOR

1. At all material times, Keven Rivard (**Rivard**) was registered under the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the **Act**) as an exempt market dealing representative with Whitehaven Securities Inc.
2. Rivard resides in Québec, and his principal regulator is the *Autorité des marchés financiers*.
3. On June 1, 2022, the *Tribunal administratif des marchés financiers* ordered that Rivard's registration under the securities laws of Québec be suspended for two months, effective June 15, 2022, and that certain terms and conditions be imposed on his registration. These measures were imposed after Rivard admitted that he failed to comply with his know-your-client and suitability obligations under National Instrument 31-103 *Registration Requirements, Exemptions, and Ongoing Registrant Obligations*, as more particularly described in Decision No. 2020-030-002 of the *Tribunal administratif des marchés financiers*.
4. On July 11, 2022, staff of the Ontario Securities Commission (**Staff**) sent a letter to Rivard (the **Letter**) informing him that they were recommending to the Director that his registration under the Act be suspended until such time as his registration in Québec was reactivated, and that the terms and conditions set out in Schedule A to this Decision (the **Terms and Conditions**), which are substantially the same as the terms and conditions imposed by the *Tribunal administratif des marchés financiers*, be imposed pursuant to s. 28 of the Act
5. The basis for the regulatory action recommended in the Letter was that it would be objectionable for Rivard to be registered in Ontario during such time as his registration in Québec was suspended.
6. The Letter also informed Rivard of his right to request an opportunity to be heard under s. 31 of the Act if he wished to oppose Staff's recommendation.
7. Rivard has provided written confirmation to Staff that he consents to a suspension of his registration and the imposition of the Terms and Conditions. Accordingly, Rivard's registration was suspended, and the Terms and Conditions were imposed, effective July 15, 2022.

August 18, 2022

"Debra Foubert"  
Director  
Compliance and Registrant Regulation

**Schedule "A"**

**Terms and Conditions of the Registration of Keven Rivard**

The registration of Keven Rivard (the **Registrant**) as an exempt market dealing representative is subject to the terms and conditions set out below. These terms and conditions were imposed by the Director pursuant to s. 28 of the *Securities Act*, R.S.O. 1990, c. S.5.

**Education**

1. Within 90 days of June 1, 2022, the Registrant must successfully complete the "Analysis of savings needs", "Savings products", and "Test your knowledge of ethics, parts 1 and 2" modules available on the website of the *Chambre de la securite financiere*, which cannot be counted towards the Registrant's compulsory continuing education units.

**Close Supervision**

2. The Registrant is subject to close supervision for a minimum period of one year from the date his registration is reactivated. Monthly Close Supervision Reports in the form specified in CSA Staff Notice 31-349 *Change to Standard Form Reports for Close Supervision and Strict Supervision Terms and Conditions* are to be completed on the Registrant's sales activities and dealings with clients. The supervision reports are to be retained by the Registrant's sponsoring firm and must be made available to staff of the Ontario Securities Commission for review upon request or as required by the Close Supervision Report.

*These terms and conditions of registration constitute Ontario securities law, and a failure by the Registrant to comply with these terms and conditions may result in further regulatory action against him, including a suspension of his registration.*

### B.3.5 Interactive Brokers Canada Inc.

#### Headnote

National Policy 11-203 Process For Exemptive Relief Applications in Multiple Jurisdictions – Application by Canadian dealer (the Applicant) for relief from the prospectus requirement in connection with the distribution of over-the-counter (OTC) foreign exchange contracts to investors resident in the applicable jurisdictions on the terms and conditions described in the decision which is subject to a four-year sunset clause – Applicant is registered as an investment dealer in all provinces and a member of the Investment Industry Regulatory Organization of Canada (IIROC) – Applicant seeking relief to permit Applicant to offer OTC foreign exchange contracts to investors in applicable jurisdictions on a similar basis as in Québec, including relief permitting the Applicant to distribute OTC foreign exchange contracts on the basis of providing to investors a clear and plain language risk disclosure document rather than a prospectus – risk disclosure document contains disclosure substantially similar to risk disclosure document required for recognized options in OSC Rule 91-502 Trades in Recognized Options, the regime for OTC derivatives contemplated by former proposed OSC Rule 91-504 OTC Derivatives (which was not adopted) and the Quebec Derivatives Act – Relief granted subject to terms and conditions as described in OSC Staff Notice 91-702 Offerings of contracts for difference and foreign exchange contracts to investors in Ontario, including a four-year sunset clause.

#### Applicable Legislative Provisions

Securities Act, R.S.O. 1990, c. S.5, as am., ss. 53 and 74(1).

OSC Rule 91-502 Trades in Recognized Options.

OSC Rule 91-503 Trades in Commodity Futures Contracts and Commodity Futures Options Entered into on Commodity Futures Exchanges Situate Outside of Ontario.

Proposed OSC Rule 91-504 OTC Derivatives (not adopted).

August 4, 2022

**IN THE MATTER OF  
THE SECURITIES LEGISLATION OF  
ONTARIO  
(the Jurisdiction)**

**AND**

**IN THE MATTER OF  
THE PROCESS FOR EXEMPTIVE RELIEF APPLICATIONS  
IN MULTIPLE JURISDICTIONS**

**AND**

**IN THE MATTER OF  
INTERACTIVE BROKERS CANADA INC.  
(the Filer)**

**DECISION**

#### Background

The principal regulator in the Jurisdiction has received an application (the **Application**) from Interactive Brokers Canada Inc. (the **Filer**) for a decision under the securities legislation of the Jurisdiction (the **Legislation**) that the Filer and its respective officers, directors and representatives be exempt from the prospectus requirement in respect of the distribution of over-the-counter (**OTC**) foreign exchange contracts to permit investors resident in the Applicable Jurisdictions (as defined below) to enter into OTC foreign exchange transactions with the Filer (referred to herein as **IB Forex transactions**) (the **Requested Relief**) subject to the terms and conditions below.

Under the Process for Exemptive Relief Applications in Multiple Jurisdictions (for a passport application):

- (a) the Ontario Securities Commission is the principal regulator for this Application (the **Principal Regulator**); and
- (b) the Filer has provided notice that section 4.7(1) of Multilateral Instrument 11-102 *Passport System* (**MI 11-102**) is intended to be relied upon in each of the other provinces of Canada, other than the provinces of Québec and Alberta, (the **Non-Principal Jurisdictions**, and, together with the Jurisdiction, the **Applicable Jurisdictions**).

### **Interpretation**

Terms defined in National Instrument 14-101 *Definitions* and MI 11-102 have the same meaning if used in this decision, unless otherwise defined.

### **Representations**

This decision is based on the following facts represented by the Filer:

#### *The Filer*

1. The Filer is a corporation incorporated under the laws of Canada with its principal office in Montréal, Quebec.
2. The Filer is a member of the Interactive Brokers Group (**Interactive Brokers**), a leading global electronic brokerage group. Interactive Brokers provides its customers with direct, high-speed access to trade in more than 120 equity and derivatives exchanges and a growing number of Electronic Communication Networks (**ECNs**). Interactive Brokers Group, Inc. is currently listed on NASDAQ under the symbol "IBKR".
3. The Filer is registered as a dealer in the category of investment dealer in all provinces, a futures commission merchant in Ontario and Manitoba, a derivative dealer in Quebec and is a member of the Investment Industry Regulatory Organization of Canada (**IIROC**).
4. The Filer does not have any securities listed or quoted on an exchange or marketplace in any jurisdiction inside or outside of Canada.
5. The Filer is not in default of applicable securities legislation in any province or territory of Canada, or IIROC Rules or IIROC Acceptable Practices (as defined below).
6. The Filer currently offers IB Forex transactions (a) to retail investors resident in Ontario pursuant to *In the Matter of Interactive Brokers Canada Inc.* dated August 7, 2018 (the **August 7, 2018 Order**) and (b) pursuant to a notice filed under section 4.7 of MI 11-102 *Passport System* regarding the Filer's intent to rely on the August 7, 2018 Order for comparable relief in the Non-Principal Jurisdictions.
7. The Filer wishes to offer IB Forex transactions to investors in the Applicable Jurisdictions on the terms and conditions described in this Decision. For the Interim Period (as defined below), the Filer is seeking the Requested Relief in connection with the proposed offering of IB Forex transactions in Ontario and intends to rely on this Decision and the Passport System described in MI 11-102 to offer IB Forex transactions in the Non-Principal Jurisdictions.
8. In Québec, the Filer is qualified by the Autorité des marchés financiers (AMF) pursuant to section 82 of the *Derivatives Act* (Québec) (the QDA) to offer IB Forex transactions to both accredited and retail investors pursuant to the provisions of the QDA, subject to the terms and conditions of its qualification decision and related provisions of the QDA.

### **IIROC Rules and Acceptable Practices**

9. As a member of IIROC, the Filer is only permitted to enter into IB Forex transactions pursuant to the rules and regulations of IIROC (the **IIROC Rules**).
10. In addition, IIROC has communicated to its members certain additional expectations as to acceptable business practices (**IIROC Acceptable Practices**) as articulated in IIROC's paper "*Regulatory Analysis of Contracts for Differences (CFDs)*" published by IIROC on June 6, 2007, as amended on September 12, 2007, for any IIROC member proposing to offer CFDs and similar OTC derivatives to investors. The Filer is in compliance with IIROC Acceptable Practices in reference to the IB Forex transactions, as applicable. The Filer will continue to offer the IB Forex transactions to clients in accordance with applicable IIROC Acceptable Practices as may be established from time to time, and will not offer IB Forex transactions linked to bitcoin, cryptocurrencies or other novel or emerging asset classes to investors in the Applicable Jurisdictions without the prior written consent of IIROC.
11. The Filer is required by IIROC to maintain a certain level of capital to address the business risks associated with its activities. The capital reporting required by IIROC (as per the calculation in the Form 1 Joint Regulatory Financial Questionnaire and Report (**Form 1**) and in the Monthly Financial Reports to IIROC) is based predominantly on the generation of financial statements and calculations so as to ensure capital adequacy. The Filer as an IIROC member is required to have a specified minimum capital which includes having any additional capital required with regards to margin requirements and other risks. This risk calculation is summarized as a risk adjusted capital calculation which is submitted in the Filer's Form 1 and required to be kept positive at all times.

### B.3: Reasons and Decisions

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12. The Filer understands that staff of the Alberta Securities Commission have public interest concerns with IB Forex trading by retail clients and, accordingly, the Filer does not offer IB Forex transactions to retail investors resident in Alberta. The Filer undertakes not to give notice that subsection 4.7(1) of MI 11-102 is intended to be relied upon in Alberta.

#### *IB Forex*

13. Interactive Brokers provides a number of vehicles for the exchange of currencies: (i) *IDEALPRO* which allows a customer to trade in foreign exchange transactions (ii) *IDEAL* which allows a customer to convert their balances from one currency to another (forex conversions); and (iii) the Auto Swap program which allows certain customers to take advantage of efficient interest rates paid in the tomorrow-next day or "Tom/Next" market which is a mechanism under which forex traders/speculators avoid taking physical delivery of currencies, normally two days after a forex transaction, while still keeping forex position open overnight.
14. For the purposes of this Application, IB Forex transactions include those transactions entered into on *IDEALPRO*, the forex conversions that are conducted through *IDEAL* and auto swaps under the Auto Swap program.
15. IB Forex transactions are OTC and may be transferable dependent on the transaction.
16. The ability to lever an investment is one of the principal features of foreign exchange contracts and transactions. Leverage allows clients to magnify investment returns (or losses) by reducing the initial capital outlay required to achieve the same market exposure that would be obtained by investing directly in the underlying currency. Leverage is only permissible on the *IDEALPRO* network.
17. IIROC Rules and IIROC Acceptable Practices each set out detailed requirements and expectations relating to leverage and margin for offerings of foreign exchange contracts. The degree of leverage may be amended in accordance with IIROC Rules and IIROC Acceptable Practices as may be established from time to time.
18. Pursuant to Section 13.12 *Restriction on lending to clients* of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* which came into force as of September 28, 2009, only those firms that are registered as investment dealers (a condition of which is to be a member of IIROC) may lend money, extend credit or provide margin to a client.

#### *Online Trading Platform*

19. Interactive Brokers has developed a module of Interactive Brokers' TWS on-line trading platform to specifically allow IB Forex transactions called FXTrader® (**FXTrader**), that offers clients direct access to interbank prices and dealing for orders as small as 25,000 USD (or equivalent), and up to 10 million USD, or more. FXTrader provides best-execution functionality and a transparent pricing structure. The Filer offers trading in 16 currencies with market spreads as small as 1/2 PIP. The tight spreads and substantial liquidity are a result of combining quotation streams from 12 of the world's largest foreign exchange dealers which provide, directly or indirectly, more than half of the momentary capital available in the global interbank market.
20. FXTrader provides an optimized trading interface, with Interactive Broker-designed tools to trade the forex markets. The price display emphasizes the critical portion of the bid/ask, and conveys price movement at a glance by showing an increasing price in green and decreasing price in orange. Each currency pair occupies its own "cell," complete with market data and order information, where a client can create, transmit and cancel orders with a single click. Overall order, trade and portfolio information is displayed along the top of the currency pairs grid.
21. Key features of the FXTrader platform includes:
- Interbank-quality spreads allow clients to trade the best bid and ask from multiple liquidity providers with spreads as low as 1/2 pip;
  - The ability to review order details and margin implications before a client transmits;
  - Instantaneous transmission to transmit a client's orders with one click on the bid or ask;
  - FXTrader supports over 15 risk-mitigation order types including trailing stop limits, brackets, limit if touched, OCA (one cancels all) and IOC (immediate or cancel);
  - The functionality of the Order Book icon which appears when the small-order book has a better price available for the currency pair; and
  - The ability of a client to customize the trading cell display to show position, average cost and profit and loss date.

### B.3: Reasons and Decisions

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22. Clients conduct IB Forex transactions through the Filer's TWS on-line trading platform. The Filer's on-line platform is similar to those developed for on-line brokerages and day-trading in that the client trades without other communication with, or advice from, the dealer. The FXTrader® module is not a "marketplace" as defined in National Instrument 21-101 *Marketplace Operation* since a marketplace is any facility that brings together multiple buyers and sellers by matching orders in fungible contracts in a nondiscretionary manner. FXTrader® does not bring together multiple buyers and sellers; rather it offers clients direct access to interbank prices.

#### *IB Forex Transactions in the Applicable Jurisdictions*

23. Foreign exchange contracts and similar OTC derivative transactions, including IB Forex transactions, when offered to investors in Canada, may be considered to be "securities" under securities legislation of the Applicable Jurisdictions.
24. Investors wishing to enter into IB Forex transactions must open an account with the Filer.
25. Prior to a client's first IB Forex transaction and as part of the account opening process, the Filer will provide the client with a separate risk disclosure document that clearly explains, in plain language, the transaction and the risks associated with the transaction (the **risk disclosure document**). The risk disclosure document includes the required risk disclosure set forth in Schedule A to the Regulations to the QDA and leverage risk disclosure required under the IIROC Rules. The risk disclosure document contains disclosure that is substantially similar to the risk disclosure statement required for recognized options in OSC Rule 91-502 *Trades in Recognized Options (OSC Rule 91-502)* (which provides both registration and prospectus exemptions) and the regime for OTC derivatives contemplated by OSC Staff Notice 91-702 *Offerings of Contracts for Difference and Foreign Exchange Contracts to Investors in Ontario (OSC SN 91-702)* and proposed OSC Rule 91-504 *OTC Derivatives* (which was not adopted) (**Proposed Rule 91-504**). The Filer will ensure that, prior to a client's first trade in an IB Forex transaction, a complete copy of the risk disclosure document provided to that client has been delivered, or has previously been delivered, to the Principal Regulator.
26. Prior to the client's first IB Forex transaction and as part of the account opening process, the Filer will obtain a written or electronic acknowledgement from the client confirming that the client has received, read and understood the risk disclosure document. Such acknowledgment will be separate and prominent from other acknowledgements provided by the client as part of the account opening process.
27. As customary in the industry, and due to the fact that this information is subject to factors beyond the control of the Filer (such as changes in IIROC Rules), information such as the margin or leverage rates would not be disclosed in the risk disclosure document but are part of a client's account opening package and are available on both the Filer's website and on FXTrader®.

#### *Satisfaction of the Registration Requirement*

28. The role of the Filer as it relates to the IB Forex transactions will be limited to acting as an execution-only dealer. In this role, the Filer will, among other things, be responsible to approve all marketing, for holding of clients funds, and for client approval (including the review of know-your-client (**KYC**) due diligence and account opening suitability assessments).
29. IIROC Rules exempt member firms that provide execution-only services such as discount brokerages from the obligation to determine whether each trade is suitable for the client. However, IIROC has exercised its discretion to impose additional requirements on members proposing to trade in foreign exchange contracts and requires, among other things, that:
- (a) Applicable risk disclosure documents and client suitability waivers provided must be in a form acceptable to IIROC;
  - (b) The Filer's policies and procedures, amongst other things, require the Filer to assess the depth of investment knowledge and trading experience of the client to assess whether the product is appropriate for the client before an account is approved to be opened. This account opening suitability process includes an assessment of the client's investment knowledge and trading experience, client identification, screening applicants and customers against lists of prohibited/blocked persons, and detecting and reporting suspicious trading and potential terrorist financing and money laundering activities to applicable enforcement authorities;
  - (c) The Filer's registered dealing representatives, as well as their registered supervisors who oversee the KYC and initial product suitability analysis will meet, or be exempt from, the proficiency requirements for futures trading and will be registered with IIROC as Investment Representative for retail customers in the product category of Futures Contracts and Futures Contract Options (IR). In addition, the Filer must have a fully qualified Supervisor for such products; and
  - (d) Cumulative loss limits for each client's account must be established (this is a measure normally applied by IIROC in connection with futures trading accounts).

### B.3: Reasons and Decisions

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30. The IB Forex transactions are offered in compliance with applicable IIROC Rules and other IIROC Acceptable Practices, as applicable.
31. The Requested Relief, if granted, would substantially harmonize the position of the regulators in the Applicable Jurisdictions on the offering of foreign exchange contracts to investors in the Applicable Jurisdictions with how those products are offered to investors in Quebec under the QDA. The QDA provides a legislative framework to govern derivatives activities within the province. Among other things, the QDA requires such products to be offered to investors through an IIROC member and the distribution of a standardized risk disclosure document rather than a prospectus in order to distribute foreign exchange contracts to investors resident in Quebec.
32. The Requested Relief, if granted, would be consistent with the guidelines articulated by Staff of the Principal Regulator in OSC SN 91-702. OSC SN 91-702 provides guidance with regards to the distributions of CFDs, foreign exchange contracts (forex or FX contracts) and similar OTC derivative products to investors in the Jurisdiction.
33. The Principal Regulator has previously recognized that the prospectus requirement may not be well suited for the distribution of certain derivative products to investors in the Jurisdiction, and that alternative requirements, including requirements based on clear and plain language risk disclosure, may be better suited for certain derivatives. In Ontario, both OSC Rule 91-502 and OSC Rule 91-503 *Trades in Commodity Futures Contracts and Commodity Futures Options Entered into on Commodity Futures Exchanges Situate Outside of Ontario (OSC Rule 91-503)* provide for a prospectus exemption for the trading of derivative products to clients. The Requested Relief is consistent with the principles and requirements of OSC Rule 91-502, OSC Rule 91-503 and Proposed Rule 91-504.
34. The Filer also submits that the Requested Relief, if granted, would harmonize the Principal Regulator's position on the offering of foreign exchange contracts with certain other foreign jurisdictions that have concluded that a clear, plain language risk disclosure document is appropriate for retail clients seeking to trade in foreign exchange contracts.
35. The Filer is of the view that requiring compliance with the prospectus requirement in order to enter into IB Forex transactions with clients in the Jurisdiction would not be appropriate since the disclosure of a great deal of the information required under the prospectus and under the reporting issuer regime is not material to a client seeking to enter into an IB Forex transaction. The information to be given to such a client should principally focus on enhancing the client's appreciation of product risk including counterparty risk. In addition, most IB Forex transactions are of short duration (positions are generally opened and closed on the same day and are in any event marked to market and cash settled daily).
36. The Filer is regulated by IIROC which has a robust compliance regime including specific requirements to address market, capital and operational risks pursuant to the IIROC Rules and the IIROC Acceptable Practices.
37. The Filer submits that the regulatory regimes developed by the AMF and IIROC for foreign exchange contracts, including IB Forex transactions, adequately addresses issues relating to the potential risk to the client of the Filer acting as counterparty. In view of these regulatory regimes, investors would receive little or no additional benefit from requiring the Filer to also comply with the prospectus requirement.
38. The Requested Relief in respect of each Applicable Jurisdiction is conditional on the Filer being registered as an investment dealer with the securities regulator in such Applicable Jurisdiction and maintaining its membership with IIROC and that all IB Forex transactions be conducted pursuant to IIROC Rules and in accordance with IIROC Acceptable Practices, as applicable.

#### Decision

The Principal Regulator is satisfied that the test set out in the Legislation to make the Decision is met.

The Decision of the Principal Regulator is that the Requested Relief is granted provided that:

- (a) The Filer shall not rely on the August 7, 2018 Order and the notice provided thereunder;
- (b) all IB Forex transactions with residents in the Applicable Jurisdictions shall be distributed through the Filer;
- (c) with respect to residents of an Applicable Jurisdiction, the Filer remains registered as a dealer in the category of investment dealer with the Principal Regulator and each securities regulatory authority in such Applicable Jurisdiction and a member of IIROC;
- (d) all IB Forex transactions with clients resident in the Applicable Jurisdictions shall be conducted pursuant to IIROC Rules imposed on members seeking to trade in foreign exchange contracts and in accordance with IIROC Acceptable Practices, as applicable and as amended from time to time;

### B.3: Reasons and Decisions

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- (e) if the Filer continues to offer IB Forex transactions to residents of Québec, all IB Forex transactions with clients resident in the Applicable Jurisdictions be conducted pursuant to the rules and regulations of the QDA and the AMF, as amended from time to time, unless and to the extent there is a conflict between i) the rules and regulations of the QDA and the AMF, and ii) the requirements of the securities laws of the Applicable Jurisdictions, the IIROC Rules and IIROC Acceptable Practices, in which case the latter shall prevail;
- (f) prior to a client first entering into an IB Forex transaction, the Filer has provided to the client the risk disclosure document described in paragraph 25 and has delivered, or has previously delivered, a copy of the risk disclosure document provided to that client to the Principal Regulator;
- (g) prior to a client's first IB Forex transaction and as part of the account opening process, the Filer has obtained a written or electronic acknowledgement from the client, as described in paragraph 26, confirming that the client has received, read and understood the risk disclosure document;
- (h) the Filer has furnished to the Principal Regulator the name and principal occupation of its officers or directors, together with either the personal information form and authorization of indirect collection, use and disclosure of personal information provided for in National Instrument 41-101 *General Prospectus Requirements* or the registration information form for an individual provided for in Form 33-109F4 of National Instrument 33-109 *Registration Information Requirements* completed by any officer or director;
- (i) the Filer shall promptly inform the Principal Regulator in writing of any material change affecting the Filer, being any change in the business, activities, operations or financial results or condition of the Filer that may reasonably be perceived by a counterparty to a derivative to be material;
- (j) the Filer shall promptly inform the Principal Regulator in writing if a self-regulatory organization or any other regulatory authority or organization initiates proceedings or renders a judgment related to disciplinary matters against the Filer concerning the conduct of activities with respect to IB Forex transactions;
- (k) within 90 days following the end of its financial year, the Filer shall submit to IIROC and the Principal Regulator the audited annual financial statements of the Filer; and
- (l) the Requested Relief shall immediately expire upon the earliest of
  - (i) four years from the date that this Decision is issued;
  - (ii) in respect of a subject Applicable Jurisdiction or Quebec, the issuance of an order or decision by a court, the securities regulatory authority in such Applicable Jurisdiction, the AMF (in respect of Quebec) or other similar regulatory body that suspends or terminates the ability of the Filer to offer foreign exchange contracts to clients in such Applicable Jurisdictions; and
  - (iii) with respect to an Applicable Jurisdiction, the coming into force of legislation or a rule by its securities regulatory authority regarding the distribution of OTC derivatives to investors in such Applicable Jurisdiction (the **Interim Period**).

“Marie-France Bourret”  
Manager, Corporate Finance  
Ontario Securities Commission

OSC File #: 2022/0296

### B.3.6 TriSummit Utilities Inc.

#### Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – the Filer requests relief from the requirements in section 3.2 of National Instrument 52-107 *Acceptable Accounting Principles and Auditing Standards* that financial statements be prepared in accordance with Canadian GAAP applicable to publicly accountable enterprises in order to permit the Filer to prepare financial statements in accordance with U.S. GAAP. Relief granted, subject to certain conditions.

#### Applicable Legislative Provisions

Securities Act, R.S.O. 1990, c. S.5, as am.

**Citation:** *Re TriSummit Utilities Inc.*, 2022 ABASC 108

August 15, 2022

**IN THE MATTER OF  
THE SECURITIES LEGISLATION OF  
ALBERTA  
AND  
ONTARIO  
(the Jurisdictions)**

**AND**

**IN THE MATTER OF  
THE PROCESS FOR EXEMPTIVE RELIEF APPLICATIONS  
IN MULTIPLE JURISDICTIONS**

**AND**

**IN THE MATTER OF  
TRISUMMIT UTILITIES INC.  
(the Filer)**

**DECISION**

#### Background

The securities regulatory authority or regulator in each of the Jurisdictions (each a **Decision Maker**) has received an application (the **Application**) from the Filer for a decision under the securities legislation of the Jurisdictions (the **Legislation**) for an exemption (the **Exemption Sought**) from the requirements of section 3.2 of National Instrument 52-107 *Acceptable Accounting Principles and Auditing Standards* (**NI 52-107**) that the financial statements of the Filer (a) be prepared in accordance with Canadian generally accepted accounting principles (**Canadian GAAP**) applicable to publicly accountable enterprises and (b) disclose an unreserved statement of compliance with IFRS in the case of annual financial statements and an unreserved statement of compliance with IAS 34 in the case of an interim financial report.

The Exemption Sought is similar to the exemption granted to the Filer on August 29, 2018 in *Re AltaGas Utility Holdings (Pacific) Inc.*, 2018 ABASC 145 (the **U.S. GAAP Relief**).

Under the Process for Exemptive Relief Applications in Multiple Jurisdictions for a dual application:

- (a) the Alberta Securities Commission is the Principal Regulator for this application;
- (b) the Filer has provided notice that section 4.7(1) of Multilateral Instrument 11-102 *Passport System* (**MI 11-102**) is intended to be relied upon by it in each of British Columbia, Saskatchewan, Manitoba, Québec, New Brunswick, Prince Edward Island, Nova Scotia, Newfoundland and Labrador, Yukon, Northwest Territories and Nunavut (the **Passport Jurisdictions**); and
- (c) the decision is the decision of the Principal Regulator and evidences the decision of the securities regulatory authority or regulator in Ontario.

### **Interpretation**

In this decision:

- (a) unless otherwise defined herein, terms defined in National Instrument 14-101 *Definitions*, MI 11-102 or NI 52-107 have the same meaning; and
- (b) rate-regulated activities has the meaning ascribed thereto in the Chartered Professional Accountants of Canada Handbook (**Handbook**).

### **Representations**

This decision is based on the following facts represented by the Filer:

1. The Filer was incorporated under the laws of Canada on October 27, 2011. The head office of the Filer is located in Calgary, Alberta.
2. The Filer is a reporting issuer in the Jurisdictions and each of the Passport Jurisdictions and is not in default of securities legislation in any jurisdiction in Canada.
3. The Filer is a corporation with diversified rate-regulated natural gas distribution and transmission utilities assets and long-term contracted renewable power generation assets and has rate-regulated activities.
4. The Filer currently prepares and files its financial statements for annual and interim periods in accordance with U.S. GAAP, relying on the U.S. GAAP Relief.
5. The Filer is not an SEC issuer. Were the Filer an SEC issuer, it would be permitted by section 3.7 of NI 52-107 to file its financial statements prepared in accordance with U.S. GAAP.
6. The U.S. GAAP Relief provided that it would cease to apply to the Filer on the earliest of: (a) January 1, 2024; (b) if the Filer ceased to have activities subject to rate regulation, the first day of the Filer's financial year that commenced after the Filer ceased to have activities subject to rate regulation; and (c) the effective date prescribed by the International Accounting Standards Board (**IASB**) for the mandatory application of a standard within IFRS specific to entities with activities subject to rate regulation. Accordingly, in the absence of further relief provided by Canadian securities regulators, the Filer would become subject to Canadian GAAP no later than January 1, 2024. Canadian GAAP includes IFRS as incorporated into the Handbook.
7. In January 2021, the IASB published the Exposure Draft - Regulatory Assets and Regulatory Liabilities, which introduces a proposed standard of accounting for regulatory assets and liabilities, applicable to entities with rate-regulated activities. The issuance by the IASB of a standard within IFRS for entities with rate-regulated activities (a **Mandatory Rate-regulated Standard**) would have resulted in the expiry of the U.S. GAAP Relief, giving rise to the obligation of the Filer to commence financial statement preparation and reporting in accordance with IFRS pursuant to NI 52-107.
8. It is not yet known when the IASB will finalize and implement such a standard and the Filer will require sufficient time to: (a) interpret and implement such standard and transition from financial statement preparation and reporting in accordance with U.S. GAAP to IFRS; and (b) interpret and reconcile the implications on the customer rate setting process resulting from the implementation.

### **Decision**

Each of the Decision Makers is satisfied that the decision meets the test set out in the Legislation for the Decision Makers to make the decision.

The decision of the Decision Makers under the Legislation is that:

- (a) the U.S. GAAP Relief is revoked;
- (b) the Exemption Sought is granted to the Filer in respect of the Filer's financial statements required to be filed on or after the date of this order, provided that the Filer prepares such financial statements in accordance with U.S. GAAP; and
- (c) the Exemption Sought will terminate in respect of the Filer on the earliest of the following:
  - (i) January 1, 2027;

### B.3: Reasons and Decisions

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- (ii) if the Filer ceases to have rate-regulated activities, the first day of the Filer's financial year that commences after the Filer ceases to have rate-regulated activities; and
- (iii) the first day of the Filer's financial year that commences on or following the later of:
  - A. the effective date prescribed by the IASB for a Mandatory Rate-regulated Standard; and
  - B. two years after the IASB publishes the final version of a Mandatory Rate-regulated Standard.

**For the Commission:**

"Tom Cotter"  
Vice-Chair

"Kari Horn"  
Vice-Chair

OSC File #: 2022/0344

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## B.4 Cease Trading Orders

### B.4.1 Temporary, Permanent & Rescinding Issuer Cease Trading Orders

Company Name	Date of Temporary Order	Date of Hearing	Date of Permanent Order	Date of Lapse/Revoke
THERE IS NOTHING TO REPORT THIS WEEK.				

### Failure to File Cease Trade Orders

Company Name	Date of Order	Date of Revocation
TWX Group Holding Limited	January 6, 2021	August 18, 2022
New Klondike Exploration Ltd.	April 4, 2016	August 22, 2022

### B.4.2 Temporary, Permanent & Rescinding Management Cease Trading Orders

Company Name	Date of Order	Date of Lapse
THERE IS NOTHING TO REPORT THIS WEEK.		

### B.4.3 Outstanding Management & Insider Cease Trading Orders

Company Name	Date of Order or Temporary Order	Date of Hearing	Date of Permanent Order	Date of Lapse/Expire	Date of Issuer Temporary Order
Performance Sports Group Ltd.	19 October 2016	31 October 2016	31 October 2016		

Company Name	Date of Order	Date of Lapse
Agrios Global Holdings Ltd.	September 17, 2020	
Gatos Silver, Inc.	April 1, 2022	
Gatos Silver, Inc.	April 12, 2022	
Rapid Dose Therapeutics Corp.	June 29, 2022	
Sproutly Canada, Inc.	June 30, 2022	
Gatos Silver, Inc.	July 7, 2022	
PlantX Life Inc.	August 4, 2022	
Radiant Technologies Inc.	August 5, 2022	

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## **B.7 Insider Reporting**

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This chapter is available in the print version of the OSC Bulletin, as well as in Thomson Reuters Canada's internet service SecuritiesSource (see [www.westlawnextcanada.com](http://www.westlawnextcanada.com)).

This chapter contains a weekly summary of insider transactions of Ontario reporting issuers in the System for Electronic Disclosure by Insiders (SEDI). The weekly summary contains insider transactions reported during the seven days ending Sunday at 11:59 pm.

To obtain Insider Reporting information, please visit the SEDI website ([www.sedi.ca](http://www.sedi.ca)).



## B.9 IPOs, New Issues and Secondary Financings

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### INVESTMENT FUNDS

**Issuer Name:**

Waypoint All Weather Alternative Fund  
Principal Regulator – Ontario

**Type and Date:**

Final Simplified Prospectus dated Aug 22, 2022  
NP 11-202 Final Receipt dated Aug 22, 2022

**Offering Price and Description:**

-

**Underwriter(s) or Distributor(s):**

N/A

**Promoter(s):**

N/A

Project #3411299

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**Issuer Name:**

Evolve Active Canadian Preferred Share Fund  
Evolve Active Global Fixed Income Fund  
Evolve Automobile Innovation Index Fund  
Evolve Cryptocurrencies ETF  
Evolve Cyber Security Index Fund  
Evolve Future Leadership Fund  
Evolve Global Healthcare Enhanced Yield Fund  
Evolve Metaverse ETF  
Evolve US Banks Enhanced Yield Fund  
High Interest Savings Account Fund  
Principal Regulator – Ontario

**Type and Date:**

Final Long Form Prospectus dated Aug 16, 2022  
NP 11-202 Final Receipt dated Aug 17, 2022

**Offering Price and Description:**

-

**Underwriter(s) or Distributor(s):**

N/A

**Promoter(s):**

N/A

Project #3409909

**Issuer Name:**

Manulife Multifactor Canadian Large Cap Index ETF  
Manulife Multifactor Canadian SMID Cap Index ETF  
Manulife Multifactor Developed International Index ETF  
Manulife Multifactor Emerging Markets Index ETF  
Manulife Multifactor U.S. Large Cap Index ETF  
Manulife Multifactor U.S. Mid Cap Index ETF  
Manulife Multifactor U.S. Small Cap Index ETF  
Principal Regulator – Ontario

**Type and Date:**

Final Long Form Prospectus dated Aug 19, 2022  
NP 11-202 Final Receipt dated Aug 19, 2022

**Offering Price and Description:**

-

**Underwriter(s) or Distributor(s):**

N/A

**Promoter(s):**

N/A

Project #3407357

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**Issuer Name:**

Desjardins RI Active Canadian Bond - Low CO2 ETF  
Desjardins RI Canada - Low CO2 Index ETF  
Desjardins RI Canada Multifactor - Low CO2 ETF  
Desjardins RI Developed ex-USA ex-Canada Multifactor -  
Low CO2 ETF  
Desjardins RI Emerging Markets Multifactor - Low CO2  
ETF  
Desjardins RI Global Multifactor - Fossil Fuel Reserves  
Free ETF  
Desjardins RI USA - Low CO2 Index ETF  
Desjardins RI USA Multifactor - Low CO2 ETF  
Principal Regulator – Quebec

**Type and Date:**

Final Long Form Prospectus dated Aug 19, 2022  
NP 11-202 Final Receipt dated Aug 22, 2022

**Offering Price and Description:**

-

**Underwriter(s) or Distributor(s):**

N/A

**Promoter(s):**

N/A

Project #3408846

**Issuer Name:**

Hamilton Enhanced Canadian Bank ETF  
Hamilton Enhanced Multi-Sector Covered Call ETF  
Hamilton Enhanced Utilities ETF  
Principal Regulator – Ontario

**Type and Date:**

Combined Preliminary and Pro Forma Long Form  
Prospectus dated Aug 17, 2022  
NP 11-202 Final Receipt dated Aug 18, 2022

**Offering Price and Description:**

-

**Underwriter(s) or Distributor(s):**

N/A

**Promoter(s):**

N/A

**Project #3412165**

**Issuer Name:**

Sprott Physical Platinum and Palladium Trust  
Principal Regulator - Ontario

**Type and Date:**

Final Shelf Prospectus (NI 44-102) dated August 15, 2022  
NP 11-202 Receipt dated August 16, 2022

**Offering Price and Description:**

-

**Underwriter(s) or Distributor(s):**

N/A

**Promoter(s):**

N/A

**Project #3417503**

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**Issuer Name:**

Mackenzie Multi-Asset Inflation-Focused Fund  
Mackenzie USD US Mid Cap Opportunities Fund  
Principal Regulator – Ontario

**Type and Date:**

Preliminary Simplified Prospectus dated Aug 15, 2022  
NP 11-202 Final Receipt dated Aug 16, 2022

**Offering Price and Description:**

-

**Underwriter(s) or Distributor(s):**

N/A

**Promoter(s):**

N/A

**Project #3389114**

**Issuer Name:**

RBC Premium \$U.S. Money Market Fund  
Principal Regulator - Ontario

**Type and Date:**

Amendment #1 to Final Simplified Prospectus dated  
August 15, 2022  
NP 11-202 Final Receipt dated Aug 17, 2022

**Offering Price and Description:**

-

**Underwriter(s) or Distributor(s):**

N/A

**Promoter(s):**

N/A

**Project #3387821**

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NON-INVESTMENT FUNDS

**Issuer Name:**

Blackline Safety Corp.  
Principal Regulator - Alberta

**Type and Date:**

Preliminary Short Form Prospectus dated August 16, 2022  
Preliminary Receipt dated August 16, 2022

**Offering Price and Description:**

\$10,516,000.00 - 4,780,000 Common Shares  
Price: \$2.20 per Common Share

**Underwriter(s) or Distributor(s):**

PI FINANCIAL CORP.  
ATB CAPITAL MARKETS INC.  
CANACCORD GENUITY CORP.  
NATIONAL BANK FINANCIAL INC.  
TD SECURITIES INC.  
RAYMOND JAMES LTD.  
ECHELON WEALTH PARTNERS INC.  
BEACON SECURITIES LIMITED  
PETERS & CO. LIMITED  
LIGHTYEAR CAPITAL INC.

**Promoter(s):**

-

**Project #3418756**

---

**Issuer Name:**

Exchange Income Corporation  
Principal Regulator - Manitoba

**Type and Date:**

Preliminary Short Form Prospectus dated August 19, 2022  
Preliminary Receipt dated August 19, 2022

**Offering Price and Description:**

\$100,029,800.00 - 2,054,000 Common Shares  
Price: \$48.70

**Underwriter(s) or Distributor(s):**

-

**Promoter(s):**

-

**Project #3421533**

---

**Issuer Name:**

FendX Technologies Inc.  
Principal Regulator - Ontario

**Type and Date:**

Preliminary Long Form Prospectus dated August 12, 2022  
Preliminary Receipt dated August 17, 2022

**Offering Price and Description:**

Qualifies for Distribution 13,138,000 Common Shares and  
6,569,000 Warrants of the Company upon the Conversion  
of Subscription Receipts

**Underwriter(s) or Distributor(s):**

-

**Promoter(s):**

Carolyn Myers

**Project #3420763**

---

**Issuer Name:**

GOLDSHORE RESOURCES INC. (formerly Sierra Madre  
Developments Inc.)

Principal Regulator - British Columbia

**Type and Date:**

Preliminary Shelf Prospectus dated August 18, 2022  
Preliminary Receipt dated August 18, 2022

**Offering Price and Description:**

\$250,000,000.00 - Common Shares, Debt Securities,  
Subscription Receipts, Warrants Units

**Underwriter(s) or Distributor(s):**

-

**Promoter(s):**

-

**Project #3422821**

---

**Issuer Name:**

Hydro One Limited  
Principal Regulator - Ontario

**Type and Date:**

Preliminary Shelf Prospectus dated August 15, 2022  
Preliminary Receipt dated August 16, 2022

**Offering Price and Description:**

\$2,000,000,000.00 - Common Shares, Preferred Shares,  
Debt Securities, Subscription Receipts, Warrants, Units

**Underwriter(s) or Distributor(s):**

-

**Promoter(s):**

-

**Project #3421472**

---

**Issuer Name:**

Parkland Corporation  
Principal Regulator - Alberta

**Type and Date:**

Preliminary Shelf Prospectus dated August 19, 2022  
Preliminary Receipt dated August 19, 2022

**Offering Price and Description:**

Common Shares, Preferred Shares, Debt Securities,  
Subscription Receipts, Convertible Securities, Warrants,  
Units

**Underwriter(s) or Distributor(s):**

-

**Promoter(s):**

-

**Project #3423429**

---

**Issuer Name:**

Sabina Gold & Silver Corp.  
Principal Regulator - British Columbia

**Type and Date:**

Preliminary Shelf Prospectus dated August 15, 2022  
Preliminary Receipt dated August 16, 2022

**Offering Price and Description:**

\$290,000,000.00 - Common Shares, Debt Securities,  
Warrants, Subscription Receipts, Units

**Underwriter(s) or Distributor(s):**

-

**Promoter(s):**

-

**Project #3421442**

---

**Issuer Name:**

Silver Mountain Resources Inc.  
Principal Regulator - Ontario

**Type and Date:**

Preliminary Shelf Prospectus dated August 15, 2022  
Preliminary Receipt dated August 16, 2022

**Offering Price and Description:**

\$25,000,000.00 - Common Shares, Warrants, Units,  
Subscription Receipts, Debt Securities

**Underwriter(s) or Distributor(s):**

-

**Promoter(s):**

MULA MINING CORP.

**Project #3421677**

---

**Issuer Name:**

Augusta Gold Corp.  
Principal Regulator - British Columbia

**Type and Date:**

Final Prospectus - MJDS dated August 18, 2022  
Receipt dated August 19, 2022

**Offering Price and Description:**

\$200,000,000.00 - Shares of Common Stock, Shares of  
Preferred Stock, Warrants, Subscription Receipts, Units

**Underwriter(s) or Distributor(s):**

-

**Promoter(s):**

-

**Project #3408023**

---

**Issuer Name:**

Frontenac Mortgage Investment Corporation  
Principal Regulator - Ontario

**Type and Date:**

Amendment #2 dated July 29, 2022 to Final Long Form  
Prospectus dated June 16, 2022  
Receipt dated August 19, 2022

**Offering Price and Description:**

Qualifying for Distribution an Unlimited Number of Common  
Shares

Price: \$30.00 per Common Share

**Underwriter(s) or Distributor(s):**

-

**Promoter(s):**

W.A. ROBINSON ASSET MANAGEMENT LTD.

**Project #3380479**

---

**Issuer Name:**

Hydro One Limited  
Principal Regulator - Ontario

**Type and Date:**

Final Shelf Prospectus dated August 15, 2022  
Receipt dated August 16, 2022

**Offering Price and Description:**

\$2,000,000,000.00 - Common Shares, Preferred Shares,  
Debt Securities, Subscription Receipts, Warrants Units

**Underwriter(s) or Distributor(s):**

-

**Promoter(s):**

-

**Project #3421472**

---

**Issuer Name:**

Jo-Jo Capital Canada Ltd.  
Principal Regulator - Ontario

**Type and Date:**

Final CPC Prospectus dated August 15, 2022  
Receipt dated August 16, 2022

**Offering Price and Description:**

Minimum Offering: \$300,000.00 -3,000,000 Common  
Shares

Maximum Offering: \$800,000.00 - 8,000,000 Common  
Shares

Price: \$0.10 per Common Share

**Underwriter(s) or Distributor(s):**

HAMPTON SECURITIES LIMITED

**Promoter(s):**

Alexander MacKay

**Project #3407630**

---

**Issuer Name:**

M3 Capital Corp.  
Principal Regulator - Alberta

**Type and Date:**

Final CPC Prospectus dated August 15, 2022  
Receipt dated August 18, 2022

**Offering Price and Description:**

\$500,000.00 - 5,000,000 Common Shares  
PRICE: \$0.10 per Common Share

**Underwriter(s) or Distributor(s):**

iA Private Wealth Inc.

**Promoter(s):**

Morris Chia

**Project #3410318**

---

**Issuer Name:**

National Bank of Canada  
Principal Regulator - Quebec

**Type and Date:**

Final Shelf Prospectus dated August 22, 2022  
Receipt dated August 22, 2022

**Offering Price and Description:**

\$5,000,000,000.00 - Debt Securities (unsubordinated indebtedness), Debt Securities (subordinated indebtedness) First Preferred Shares, Common Shares, Subscription Receipts

**Underwriter(s) or Distributor(s):**

-

**Promoter(s):**

-

**Project #3421177**

---

**Issuer Name:**

Parkland Corporation  
Principal Regulator - Alberta

**Type and Date:**

Final Shelf Prospectus dated August 19, 2022  
Receipt dated August 19, 2022

**Offering Price and Description:**

Common Shares, Preferred Shares, Debt Securities, Subscription Receipts, Convertible Securities, Warrants, Units

**Underwriter(s) or Distributor(s):**

-

**Promoter(s):**

-

**Project #3423429**

---

**Issuer Name:**

Sprott Physical Platinum and Palladium Trust  
Principal Regulator - Ontario

**Type and Date:**

Final Shelf Prospectus dated August 15, 2022  
Receipt dated August 16, 2022

**Offering Price and Description:**

-

**Underwriter(s) or Distributor(s):**

-

**Promoter(s):**

-

**Project #3417503**

---

**Issuer Name:**

Triple Flag Precious Metals Corp.  
Principal Regulator - Ontario

**Type and Date:**

Amendment dated August 17, 2022 to Final Shelf Prospectus dated April 28, 2022  
Receipt dated August 22, 2022

**Offering Price and Description:**

US\$1,000,000,000.00 Common Shares, Preferred Shares, Debt Securities, Subscription Receipts, Warrants, Units

**Underwriter(s) or Distributor(s):**

-

**Promoter(s):**

TRIPLE FLAG MINING AGGREGATOR S.À R.L.

**Project #3365186**

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## B.10 Registrations

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### B.10.1 Registrants

Type	Company	Category of Registration	Effective Date
THERE IS NOTHING TO REPORT THIS WEEK.			

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# B.11

## SROs, Marketplaces, Clearing Agencies and Trade Repositories

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### B.11.2 Marketplaces

#### B.11.2.1 Canadian Securities Exchange – Notice of Withdrawal of Proposed Amendment to Trading Fees

##### CANADIAN SECURITIES EXCHANGE

##### NOTICE OF WITHDRAWAL OF PROPOSED AMENDMENT TO TRADING FEES

In accordance with the process for the Review and Approval of Rules and the Information Contained in Form 21-101F1 and the Exhibits Thereto (the “**Protocol**”) attached as Schedule 3 and Appendix B of the respective Ontario Securities Commission and British Columbia Securities Commission recognition orders, the Canadian Securities Exchange (“**CSE**” or the “**Exchange**”) has withdrawn the Proposed Fee Model for TSX and TSXV Listed Securities Trading on the CSE.

The proposed changes to CSE fees were published for comment on December 9, 2021 in CSE Notice 2021-06. To the extent the CSE decides to pursue the proposed fee change after it is withdrawn, the Exchange will have to re-submit it for review and approval in accordance with this Protocol.

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*Editor's Note: On Friday, April 29, 2022, the Securities Commission Act, 2021, came into force by proclamation of the Lieutenant Governor of Ontario. The new structural and governance changes are now reflected in the Bulletin index with the use of the "Capital Markets Tribunal" designation to differentiate those proceedings from the proceedings of the Ontario Securities Commission: [www.capitalmarketstribunal.ca](http://www.capitalmarketstribunal.ca).*

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